

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Originating**

## **Senate Bill 716**

BY SENATORS MAYNARD, WOODRUM, SWOPE, SYPOLT,

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[Originating in the Committee on Government

Organization; reported on March 27, 2021]

1 A BILL to amend and reenact §5B-1A-9 of the Code of West Virginia, 1931, as amended; to  
2 amend said code by adding thereto a new article, designated §5B-1C-1, §5B-1C-2, §5B-  
3 1C-3, §5B-1C-4, §5B-1C-5, §5B-1C-6, §5B-1C-7, §5B-1C-8, §5B-1C-9, §5B-1C-10, §5B-  
4 1C-11, §5B-1C-12, §5B-1C-13, §5B-1C-14, §5B-1C-15, §5B-1C-16, §5B-1C-17, §5B-1C-  
5 18, and §5B-1C-19; to amend and reenact §11-14C-47 of said code; to amend and  
6 reenact §17-2A-8 of said code; to amend said code by adding thereto a new section,  
7 designated §17-2A-11a; to amend said code by adding thereto a new section, designated  
8 §17-19-16; to amend and reenact §20-1-7 of said code; to amend and reenact §20-2-24  
9 of said code; to amend said code by adding thereto a new section, designated §20-2-43;  
10 to amend and reenact §20-5-2 of said code; and to amend said code by adding thereto a  
11 new section, designated §20-17-20, all relating to encouraging public access to and use  
12 of state roads and trails; removing the liability of railroad companies who give land to  
13 nonprofits or state or local entities for the purpose of developing that land for tourism, rail  
14 to trail programs, campgrounds, or parks; establishing an Adventure Travel Recreation  
15 Program within the Division of Natural Resources; making legislative findings and  
16 declaring legislative intent; defining terms; establishing an Adventure Travel Recreation  
17 Commission and specifying the composition and duties thereof; establishing the Office of  
18 Adventure Travel Recreation and defining the duties and responsibilities thereof;  
19 establishing conservation priorities of the office; providing for distribution of program  
20 information; authorizing contracts for goods and services to carry out responsibilities of  
21 the office; restricting the use of eminent domain; providing immunity and protection from  
22 liability for property holders or owners; requiring opportunity for public comment and for  
23 use for best available science; authorizing the creation of state vehicular recreation areas  
24 and providing for protection of sensitive areas; authorizing the designation and  
25 development of a West Virginia Statewide Motorized Trail; providing for a program of  
26 grants and cooperative agreements; apportioning funds; establishing criteria for various

27 functions; detailing special, mandatory preconditions for grant and project applications;  
28 establishing an Adventure Travel Recreation Fund; and specifying an apportionment and  
29 allowable uses of moneys in the fund; requiring a percentage of taxes collected from motor  
30 fuels to be used to map state roads using the graphic information system; requiring the  
31 Commissioner of Highways to post online any petition, notice, order, decision, or other  
32 record related to the abandonment or discontinuance of any state highway or road, or any  
33 part thereof; and providing that any member of the public shall be allowed to participate in  
34 or attend a hearing relating to the abandonment or discontinuance of any state highway  
35 or road by virtual means; creating an inventory and mapping system of all roads in state  
36 forests, state parks, national forests and national parks; creating a process to facilitate the  
37 reporting and removal of illegal gates on public roads; to create a means by which  
38 members of the public may report illegal gates; creating a method of verification; creating  
39 a process by which to notify law enforcement of the gates so that they may be removed;  
40 and providing an effective date; authorizing the director of the Division of Natural  
41 Resources to promulgate rules relating to qualifications of outfitters and guides, consistent  
42 with the federal outfitter and guide operating guidelines as set out in Appendix H of the  
43 USDA Forest Service Outfitter and Guide Operating Guidelines; and permitting outfitters  
44 and guides to offer services for jeep tours with fees assessed by the director; creating a  
45 wildlife viewing stamp for certain hunting and fishing licensees and permit holders;  
46 allowing dispersed camping on state property; and requiring a dispersed camping stamp;  
47 requiring training for outfitters and guides; enacting Adopt-A-Trail programs for trails and  
48 paths; extending the concept to authorize volunteer improvements to trails and paths;  
49 empowering nonprofit entities to administer any necessary improvements; providing  
50 provisions for disposal of solid waste left along trails and paths; and providing an effective  
51 date.

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

## CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985

### ARTICLE 1A. WEST VIRGINIA RAILS TO TRAILS PROGRAM.

#### §5B-1A-9. Limitation on liability of persons making land available for trail use without charge.

1           (a) *General rule.* – Except as specifically recognized or provided in subsection (d) of this  
2 section, an owner, railroad company, or lessee who provides the public with land for use as a trail  
3 under this article or who owns land adjoining any trail developed under this article owes no duty  
4 of care to keep the land safe for entry or use by others for recreational purposes, or to give any  
5 warning to persons entering or going on the trail or adjoining land of a dangerous condition, use,  
6 structure or activity thereon.

7           (b) *Owner.* – Any person, public agency or corporation owning an interest in land utilized  
8 for recreational trail purposes pursuant to this article shall be treated as an “owner” for purposes  
9 of this article.

10           (c) *Specific limitations on liability.* – Except as specifically recognized by or provided in  
11 subsection (d) of this section, an owner, railroad company, or lessee who provides the public with  
12 land or who owns adjoining land to the trail under this article is not, by providing that trail or land  
13 or owning land adjoining the trail:

14           (1) Presumed to extend any assurance that the land is safe for any purpose;

15           (2) Incur any duty of care toward a person who goes on that land; or

16           (3) Become liable for any injury to persons or property caused by an act or an act of  
17 omission of a person who goes on that land.

18           (d) *Exception.* –

19           (1) This section does not apply to the owner, railroad company, or lessee of the land used  
20 as a trail if there is any charge made or usually made for entering or using the trail or land, or any  
21 part thereof.

22 (2) This section does not apply to the owner of land adjoining a trail if there is any charge  
23 made or usually made by the owner of such adjoining land for using the trail or land, or any part  
24 thereof, or if any commercial or other activity relating to the use of the trail whereby profit is derived  
25 from the patronage of the general public is conducted on such adjoining land, or on any part  
26 thereof.

27 (3) The foregoing applies whether the person going on the land provided or adjoining is  
28 an invitee, licensee, trespasser or otherwise.

29 (4) This section applies to railroad companies which own unused rail lines, and who allow  
30 a nonprofit or a local or state governing body to use that property for tourism or the public good,  
31 i.e. the development of rail trails, camp areas, playgrounds, and mini-excursions.

32 (e) This article does not relieve any person of liability which would otherwise exist for  
33 deliberate, willful, or malicious injury to persons or property. The provisions of this article do not  
34 create or increase the liability of any person.

**ARTICLE 1C. ADVENTURE TRAVEL RECREATION.**

**§5B-1C-1. Legislative findings and intent.**

1 (a) The Legislature declares the following findings:

2 (1) Adventure travel is enjoying an ever-increasing popularity in West Virginia.

3 (2) Adventure travel includes both motorized recreation and motorized off-highway access  
4 to nonmotorized recreation activities.

5 (3) The indiscriminate and uncontrolled use of those vehicles may have a deleterious  
6 impact on the environment, wildlife habitats, sensitive areas, native wildlife, and native flora.

7 (b) The Legislature hereby declares that effectively managed areas and adequate facilities  
8 for the use of off-highway vehicles and conservation and enforcement are essential for  
9 ecologically balanced recreation.

10 (c) Accordingly, it is the intent of the Legislature that:

11 (1) Existing adventure travel recreational areas, facilities, and opportunities should be

12 expanded and managed in a manner consistent with this article, with particular focus on  
13 maintaining sustained, long-term use;

14 (2) New adventure travel recreational areas, facilities, and opportunities should be  
15 provided and managed pursuant to this article in a manner that will conscientiously sustain long-  
16 term use;

17 (3) The Department of Commerce should support both motorized adventure travel  
18 recreation and motorized off-highway access to nonmotorized recreation;

19 (4) When an area or trail or portion thereof cannot be maintained to appropriate  
20 established standards for sustained long-term use, it should be closed to use and brought back  
21 into compliance with those standards. Those areas should remain closed until they can be  
22 managed within soil conservation and wildlife protection standards and, if these standards cannot  
23 be met, those areas should, at a minimum, be restored to the condition prior to the use of the  
24 area, trail, or portion designated for vehicular recreation;

25 (5) Prompt and effective implementation of the Adventure Travel Recreation Program by  
26 the department and the Office of Adventure Travel Recreation should have an equal priority  
27 among other programs in the department;

28 (6) Adventure travel motor vehicle recreation should be managed in accordance with this  
29 article through financial assistance to local governments and joint undertakings with agencies of  
30 the United States.

**§5B-1C-2. Definitions.**

1 For the purposes of this article:

2 “Adaptive management” means to use the results of information gathered through a  
3 monitoring program or scientific research to adjust management strategies and practices to  
4 conserve cultural resources and provide for the conservation and improvement of natural  
5 resources;

6 “Commission” means the Adventure Travel Recreation Commission;

7 “Department” means the West Virginia Department of Commerce;

8 “Fund” means the Adventure Travel Recreation Fund created by §5B-1C-16 of this code;

9 “Grant program” means the local assistance grant program and the cooperative  
10 agreement program;

11 “Monitoring program” means a program adopted by the department that provides periodic  
12 evaluations of the condition of resources and informs adaptive management within state vehicular  
13 recreation areas;

14 “Off-highway motor vehicle” means an off-highway motor vehicle as defined in §17F-1-9  
15 of this code;

16 “Office” means the Office of Adventure Travel Recreation established under this article;

17 “Program” means the Adventure Travel Recreation Program;

18 “Restoration” and “restore” mean, upon closure of the unit or any portion thereof, the  
19 restoration of land to the contours, the plant communities, and the plant covers comparable to  
20 those on surrounding lands or at least those that existed prior to adventure travel use;

21 “State vehicular recreation area” means a unit of the state park system established  
22 pursuant to §5B-1C-12 of this code; and

23 “System” means the state vehicular recreation areas, the West Virginia Statewide  
24 Motorized Trail, areas and trails within the state park system, and areas supported by the grant  
25 program.

**§5B-1C-3. Adventure Travel Recreation Commission.**

1 (a) The Adventure Travel Recreation Commission is hereby established, consisting of  
2 eight members, four of whom are to be appointed by the Governor and subject to confirmation by  
3 the Senate.

4 (b) The commission shall consist of one representative each from the Department of  
5 Commerce, the Department of Environmental Protection, the Division of Forestry, and the Division  
6 of Natural Resources.

7           (b) In making appointments to the commission, the Governor shall consider the places of  
8 residence of the members of the commission to ensure statewide representation. Additional  
9 members shall be selected from one or more of the following groups, no one of which is to  
10 comprise two or more members of the commission:

11           (1) Adventure travel vehicle recreation interests;

12           (2) Biological or soil scientists;

13           (3) Groups or associations of predominantly rural landowners;

14           (4) Environmental protection organizations;

15           (5) Nonmotorized recreation interests; and

16           (6) Businesses that are dependent, in a substantial portion, on tourism in this state.

17           (c) By December 31, 2021, the commission shall convene a stakeholder process to make  
18 recommendations to the Governor regarding ways to implement this section. The stakeholder  
19 process may consider a variety of recommendations, including, but not limited to, ways to achieve  
20 a diverse commission, including the geographic diversity of West Virginia, as well as the diversity  
21 of all West Virginians, including, but not limited to, the special needs of all who participate in off-  
22 highway vehicular recreation, and ways to achieve diverse public participation in the commission  
23 process. The department shall submit these recommendations to the Governor on or before  
24 January 1, 2022.

25           (d) The terms of the members of the commission shall be four years.

26           (e) The members of the commission shall elect a chairperson from their number who shall  
27 serve as chairperson for one year and until his or her successor is elected. The chairperson of  
28 the commission may appoint committees composed of members of the commission and prescribe  
29 the jurisdiction of each. The director of the department, or his or her designee, shall be the  
30 secretary of the commission.

31           (f) Each member of the board not otherwise employed by the state shall be paid the same  
32 compensation, and each member of the board shall be paid the expense reimbursement, as is



33 paid to members of the Legislature for their interim duties as recommended by the Citizens  
34 Legislative Compensation Commission and authorized by law for each day or portion thereof  
35 engaged in the discharge of official duties, as provided in §4-2A-5, §4-2A-6, and §4-2A-7 of this  
36 code.

**§5B-1C-4. Duties and responsibilities of the commission.**

1 The commission has the following duties and responsibilities:

2 (1) Be fully informed regarding all governmental activities affecting the program;

3 (2) Meet at least four times per year at various locations throughout the state to receive  
4 comments on the implementation of the program. Establish an annual calendar of proposed  
5 meetings at the beginning of each calendar year. The meetings shall include a public meeting,  
6 before the beginning of each grant program cycle, to collect public input concerning the program,  
7 recommendations for program improvements, and specific project needs for the system;

8 (3) Hold a public hearing to receive public comment regarding any proposed substantial  
9 acquisition or development project at a location in close geographic proximity to the project,  
10 unless a hearing consistent with federal law or regulation has already been held regarding the  
11 project.

12 (4) Consider, upon the request of any owner or tenant, whose property is in the vicinity of  
13 any land in the system, any alleged adverse impacts occurring on that person's property from the  
14 operation of off-highway motor vehicles and recommend to the office suitable measures for the  
15 prevention of any adverse impact determined by the commission to be occurring, and suitable  
16 measures for the restoration of adversely impacted property;

17 (5) Review and comment annually to the director on the proposed budget of expenditures  
18 from the fund;

19 (6) Review all plans for new and expanded local and regional vehicle recreation areas that  
20 have applied for grant funds;

21 (7) Review and comment on strategic plans periodically developed by the office;

22 (8) Prepare and submit a program report to the Governor and the appropriate policy and  
23 fiscal committees of each house of the Legislature on or before January 1, 2022, and every three  
24 years thereafter. The report shall be adopted by the commission after discussing the contents  
25 during a minimum of two or more public meetings. One of the public meetings shall be held in  
26 northern West Virginia and one shall be held in southern West Virginia. The report shall address  
27 the status of the program and adventure travel recreation, including all of the following:

28 (A) A summary of the process, standards, and plans developed pursuant to this article;

29 (B) The condition of natural and cultural resources of areas and trails receiving state  
30 adventure travel funds and the resolution of conflicts of use in those areas and trails;

31 (C) The status and accomplishments of funds appropriated for restoration pursuant to  
32 §5B-1C-14 and §5B-1C-16 of this code;

33 (D) A summary of resource monitoring data compiled, and restoration work completed;

34 (E) Actions taken by the office and department since the last program report to discourage  
35 and decrease trespass of off-highway motor vehicles on private property; and

36 (F) Other relevant program-related environmental issues that have arisen at state  
37 vehicular recreation areas since the last program report, including, but not limited to, actions  
38 undertaken to ensure compliance with the federal Endangered Species Act, state air quality laws  
39 and regulations, federal Clean Water Act, and state water quality regulations, or permits; and

40 (9) Make other recommendations to the Secretary regarding the adventure travel  
41 recreation program.

42 (10) Nothing in this section shall be construed to give the commission authority over the  
43 Division of Natural Resources regarding decisions to open areas under its control to motorized  
44 vehicles.

**§5B-1C-5. Office of Adventure Travel Recreation.**

1 (a) The Office of Adventure Travel Recreation is hereby established as a unit of the  
2 Department of Commerce. The office has the following duties and responsibilities:

- 3           (1) Planning, acquisition, development, conservation, and restoration of lands in the state  
4 vehicular recreation areas;
- 5           (2) Management, maintenance, administration, and operation of lands in the state  
6 vehicular recreation areas;
- 7           (3) Provision for law enforcement and appropriate public safety activities;
- 8           (4) Implementation of all aspects of the program;
- 9           (5) Ensure program compliance with the environmental protection laws of the state in state  
10 vehicular recreation areas;
- 11           (6) Provide staff assistance to the commission;
- 12           (7) Prepare and implement management and wildlife habitat protection plans for lands in,  
13 or proposed to be included in, state vehicular recreation areas, including new state vehicular  
14 recreation areas. These plans shall be developed in consideration of statutorily required state and  
15 regional conservation objectives. Trails may only be added or included as components of existing  
16 trail systems when developing or updating plans in state vehicular recreation areas, upon  
17 completion of full environmental review;
- 18           (8) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared,  
19 studies that are necessary or desirable for implementing the program;
- 20           (9) Recruit and utilize volunteers to further the objectives of the program;
- 21           (10) Prepare and coordinate safety and education programs;
- 22           (11) Provide for the enforcement of motor vehicle and other laws regulating the use or  
23 equipment of adventure travel vehicles in all areas acquired, maintained, or operated by funds  
24 from the fund; however, the Department of Commerce shall have concurrent jurisdiction for  
25 enforcement on highways in immediate proximity to state vehicular recreation areas;
- 26           (12) Provide for the conservation of natural and cultural resources, including appropriate  
27 mitigation;
- 28           (13) Post on the department's website all plans, reports, and studies related to off-highway

29 vehicle recreation developed by the office;

30 (14) Report on any closure implemented pursuant to this article at the next commission  
31 meeting following the closure; and

32 (15) Complete other duties as determined by the director.

33 (b) Nothing in this article relieves the office from compliance with state and federal laws  
34 and regulations, including permit requirements.

35 (c) Nothing in this section shall be construed to give the Office of Adventure Travel  
36 authority over the Division of Natural Resources regarding decisions to open areas under its  
37 control to motorized vehicles.

**§5B-1C-6. Distribution of program information.**

1 (a) In cooperation with the commission, the office shall make available on a public website  
2 information regarding adventure travel recreation opportunities, pertinent laws and regulations,  
3 and responsible use of the system. Where practical, the website shall include the following:

4 (1) The text of laws and regulations relating to the program and operation of adventure  
5 travel vehicles;

6 (2) A statewide map and regional maps of federal, state, and local adventure travel vehicle  
7 recreation areas and facilities in the state, including links to maps of federal adventure travel  
8 vehicle routes resulting from the route designation process;

9 (3) Information concerning safety, education, and trail etiquette; and

10 (4) Information to prevent trespass, damage to public and private property, and damage  
11 to natural resources, including penalties and liability associated with trespass and damage  
12 caused.

13 (b) The office may create, and update when appropriate, a guidebook of federal, state,  
14 and local off-highway vehicle recreation opportunities that includes information where current  
15 specific maps and information for each facility can be located. Contact information shall be  
16 provided and shall include available internet website addresses, telephone numbers, and

17 addresses of offices where maps can be accessed. The guidebook shall also include the address  
18 of the website where the information in subdivision (a) of this section may be found.

19 (c) The office may work with retailers of off-highway motor vehicles and off-highway  
20 recreation associations to distribute the guidebook developed under subdivision (b) of this section  
21 and to increase awareness of the resources available on the public website.

**§5B-1C-7. Soil conservation and wildlife preservation; development of standard; duties to**  
**restore certain areas; cultural and historic preservation.**

1 (a) The protection of public safety, the appropriate utilization of lands, and the  
2 conservation of natural and cultural resources are of the highest priority in the management of  
3 the state vehicular recreation areas. Additionally, the office shall promptly repair and continuously  
4 maintain areas and trails, and shall anticipate and prevent accelerated and unnatural erosion and  
5 other off-highway vehicle impacts to the most reasonable extent possible. The office shall take  
6 steps necessary to prevent damage to significant natural and cultural resources within state  
7 vehicular recreation areas.

8 (b)(1) The office, in consultation with the United States Natural Resource Conservation  
9 Service, the United States Geological Survey, the United States Forest Service, the United States  
10 Bureau of Land Management, and United States Fish and Wildlife Service, shall, by December  
11 31, 2022, formulate a Soil Conservation Standard and Guidelines to establish a generic and  
12 measurable soil conservation standard. The office shall subsequently review and update the  
13 standard when deemed necessary by the department.

14 (2) If the office determines that the soil conservation standards and habitat protection  
15 plans are not being met in any portion of any state vehicular recreation area, the office shall  
16 temporarily close the noncompliant portion to repair and prevent accelerated erosion, until the soil  
17 conservation standards are met.

18 (3) If the office determines that the soil conservation standards cannot be met in any  
19 portion of any state vehicular recreation area, the office shall close the noncompliant portion and

20 restore the portion pursuant to this article.

21 (c)(1) In cooperation with other sections or units of the department, the office shall compile  
22 and periodically review and update an inventory of wildlife populations and prepare a wildlife  
23 habitat protection plan that conserves and improves wildlife habitats for each state vehicular  
24 recreation area. By December 31, 2025, the office shall compile an inventory of native plant  
25 communities in each state vehicular recreation area to inform future updates.

26 (2) If the office determines that the wildlife habitat protection plan is not being met in any  
27 portion of any state vehicular recreation area, the office shall close the noncompliant portion  
28 temporarily until the wildlife habitat protection plan is met.

29 (3) If the office determines that the wildlife habitat protection plan cannot be met in any  
30 portion of any state vehicular recreation area, the office shall close and restore the noncompliant  
31 portion pursuant to this article.

32 (d) The office shall monitor annually in each state vehicular recreation area to determine  
33 whether soil conservation standards are being met and the objectives of wildlife habitat protection  
34 plans are being met.

35 (e) The office shall not fund trail construction unless the trail can comply with the  
36 conservation specifications prescribed in this section. The office shall not fund trail construction  
37 where conservation is not feasible. The office shall not fund the maintenance of a trail unless that  
38 trail is a component of a state vehicular recreation area road and trail system.

39 (f) The office shall protect natural, cultural, and archaeological resources within the state  
40 vehicular recreation areas.

**§5B-1C-8. Contracts for care and maintenance.**

1 The office may enter into contracts with concessionaires and grants or cooperative  
2 agreements with other public agencies, pursuant to laws and procedures specified by office, for  
3 the care and maintenance of lands in the system, including law enforcement services with public  
4 agencies having law enforcement authority.

**§5B-1C-9. Eminent domain not to be exercised.**

1 Eminent domain shall not be exercised to acquire any interest in property for a state  
2 vehicular recreation area, the West Virginia Statewide Motorized Trail, or any grant program area  
3 or trail by the office or any public agency that has entered into a grant or cooperative agreement  
4 with the office.

**§5B-1C-10. Immunity of landowners and others with legal control over property.**

1 No owner or other person having legal control of property in the vicinity of any lands in the  
2 system is liable for any actions of any type resulting from, or caused by, the user of an adventure  
3 travel who is trespassing on property outside the system; and no owner or other person having  
4 legal control of property in the vicinity of any lands in the system is liable for any one's actions of  
5 any type commenced on, or taking place within, the boundaries of lands in the system.

**§5B-1C-11. Best available science and public comment requirements.**

6 The department shall require that any soil conservation standard, wildlife habitat protection  
7 plan, or monitoring program, required by this article, applies best available science. All standards,  
8 plans, and monitoring programs subject to, or required by, this article shall provide opportunities  
9 for public comment, including, but not limited to, written comments and public meetings, as  
10 appropriate.

**§5B-1C-12. State vehicular recreation areas.**

1 (a) State vehicular recreation areas consist of areas selected, developed, and operated to  
2 provide adventure travel vehicle recreation opportunities. State vehicular recreation areas shall  
3 be selected for acquisition on lands where the need to establish areas to protect natural and  
4 cultural resources is minimized, the terrain is capable of withstanding motorized vehicle impacts,  
5 and where there are quality recreational opportunities for adventure travel vehicles. Areas shall  
6 be developed, managed, and operated for the purpose of providing the fullest appropriate public  
7 use of the vehicular recreational opportunities present, in accordance with the requirements of  
8 this article, while providing for the conservation of cultural resources and the conservation and

9 improvement of natural resource values over time.

10 (b) After January 1, 2022, no new cultural or natural preserves or state wildernesses shall  
11 be established within state vehicular recreation areas. To protect natural and cultural resource  
12 values, sensitive areas may be established within state vehicular recreation areas where  
13 determined by the department to be necessary to protect natural and cultural resources. These  
14 sensitive areas shall be managed by the office in a manner consistent with the duties of the  
15 department director regarding protection of natural and cultural preserves.

16 (c) If adventure travel use results in damage to any natural or cultural resources or damage  
17 within sensitive areas, appropriate measures shall be promptly taken to protect these lands from  
18 any further damage. These measures may include the erection of physical barriers and shall  
19 include the restoration of natural resources and the repair of damage to cultural resources.

**§5B-1C-13. West Virginia Statewide Adventure Travel Trail.**

1 The office shall assist in the designation of corridors for a West Virginia Statewide  
2 Motorized Trail. The West Virginia Statewide Adventure Travel Trail shall consist of corridors that  
3 are designated and maintained for recreational travel by off-highway motor vehicles, and that are  
4 designated for adventure travel by the owner of, or other person or public entity having control  
5 over, the property traversed by the corridor. Portions of the West Virginia Statewide Adventure  
6 Travel Trail may include lands designated and maintained as trailheads. The West Virginia  
7 Statewide Adventure Travel Trail shall be selected and managed in accordance with this article.  
8 Trails designated pursuant to this section may be known as the West Virginia Statewide  
9 Adventure Travel Trail.

**§5B-1C-14. Local assistance grants, grants to nonprofit organizations and educational institutions; and cooperative agreements with federal agencies.**

1 (a) The office shall develop and implement a grant and cooperative agreement program  
2 to support the planning, acquisition, development, maintenance, administration, operation,  
3 enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities



4 associated with the use of adventure travel vehicles, and programs involving adventure travel  
5 safety or education.

6 (b) When appropriated by the Legislature for grants and cooperative agreements,  
7 available funds shall be awarded in accordance with the following categories:

8 (1) Operation and maintenance. —

9 (A) At least 50 percent of the funds appropriated by the Legislature pursuant to §5B-1C-  
10 16 of this code shall be expended solely for grants and cooperative agreements for the acquisition,  
11 maintenance, operation, planning, development, or conservation of authorized trails and facilities  
12 associated with the use of adventure travel vehicles for recreation or motorized access to  
13 nonmotorized recreation.

14 (B) Guidelines developed to implement this subdivision, pursuant to subsection (d) of this  
15 section, shall at a minimum:

16 (i) Give preference to applications that sustain existing authorized adventure travel  
17 recreation opportunities; and

18 (ii) Consider applications that improve facilities that provide motorized access to  
19 nonmotorized recreation opportunities.

20 (C) Applications that would affect lands identified as inventoried roadless areas by the  
21 Forest Service of the United States Department of Agriculture are eligible for cooperative  
22 agreements if the application is for a project that does any of the following:

23 (i) Realigns a forest system road or trail to prevent irreparable resource damage that arises  
24 from the design, location, use, or deterioration of a classified route and that cannot be mitigated  
25 by route maintenance;

26 (ii) Reconstructs a national forest system road or trail to implement a route safety  
27 improvement project on a classified route determined to be hazardous on the basis of accident  
28 experience or accident potential on that route; or

29 (iii) Maintains a road or trail that was included in the National Forest System Roads and

30 Trails on or before January 1, 2009.

31 (D) Any unencumbered funds under this paragraph shall only be used in future grant  
32 cycles for purposes consistent with this paragraph.

33 (2) Restoration. —

34 (A) Of the funds appropriated by the Legislature pursuant to §5B-1C-16 of this code, 25  
35 percent shall be expended solely for grants and cooperative agreements for projects that restore  
36 or repair habitat damaged by off-highway motor vehicle use.

37 (B) The office shall develop and implement, in consultation with the wildlife section of the  
38 Division of Natural Resources, a competitive grant and cooperative agreement program which  
39 shall be administered in accordance with this paragraph.

40 (C) Funds identified in this paragraph shall be available for grants and cooperative  
41 agreements for projects that restore or repair habitat damaged by off-highway motor vehicle use.

42 (D) Eligible projects include:

43 (i) Removal of a road or trail or restoration of an area associated with the rerouting and  
44 subsequent closure of a designated road or trail;

45 (ii) Removal of roads or trails and the restoration of damaged habitats in any area that is  
46 not designated for motorized vehicle use;

47 (iii) The removal of closed roads or trails, or a portion of a closed road or trail, that will help  
48 to prevent off-highway motor vehicle access to closed areas;

49 (iv) Scientific and cultural studies regarding the impact of adventure travel recreation not  
50 otherwise required by state or federal laws;

51 (v) Planning to identify appropriate restoration techniques, strategies, and project  
52 implementation, including planning associated with environmental review; and

53 (vi) Restoration projects that generally improve and restore the function of natural resource  
54 systems damaged by motorized activities.

55 (E) Eligible applicants include local, state, and federal agencies, federally or state

56 recognized Native American tribes, educational institutions, certified community conservation  
57 corps, resource conservation districts, and other eligible nonprofit organizations.

58 (F) Guidelines developed to implement this paragraph shall at a minimum do all of the  
59 following:

60 (i) Consider applications for projects that will restore areas that have experienced the most  
61 damage from motorized use or face the highest threat of significant environmental damage from  
62 motorized use;

63 (ii) Guarantee that no grant will be used for the development or maintenance of trails for  
64 motorized use; and

65 (iii) Encourage public agencies managing lands to prepare and implement a management  
66 and enforcement plan to prevent reoccurring damage from unauthorized use.

67 (G) Any unencumbered funds under this paragraph shall be used only in future grant  
68 cycles for purposes consistent with this paragraph.

69 (3) Law enforcement. —

70 (A) Of the funds appropriated by the Legislature pursuant §5B-1C-16 of this code, 20  
71 percent shall be available for law enforcement grants and cooperative agreements and shall be  
72 allocated to local and federal law enforcement entities for peace officers or other personnel who  
73 have authority to issue citations or take other official law enforcement action, and related  
74 equipment. The amount of the grant or cooperative agreement shall be proportionate to the off-  
75 highway motor vehicle enforcement needs under each entity's jurisdiction.

76 (B) The office shall develop a method to determine the law enforcement needs for each  
77 applicant.

78 (C) The office shall develop eligibility guidelines for law-enforcement projects. The  
79 guidelines, at a minimum, shall require the applicant to do all of the following:

80 (i) Specify formal and informal cooperation with other appropriate law-enforcement  
81 entities, including any applicable federal entities;

82 (ii) Establish a policy on how violations of adventure travel vehicle laws and regulations  
83 will be enforced on federal land, if the applicant is a local law-enforcement entity;

84 (iii) Identify areas with high priority law enforcement needs because of public safety,  
85 cultural resources, and sensitive environmental habitats, including wilderness areas and areas of  
86 critical environmental concern;

87 (iv) Explain whether the applicant is recovering a portion of law enforcement costs directly  
88 associated with privately sponsored events where sponsors have obtained a local permit;

89 (v) Establish a public education program that includes information regarding safety  
90 programs offered in the area and how to report off-highway motor vehicle operation violations;  
91 and

92 (vi) Specify how personnel is trained and educated regarding adventure travel vehicle  
93 safety and resource and cultural protection.

94 (D) Any unencumbered funds under this paragraph shall be used only in future grant  
95 cycles for purposes consistent with this paragraph.

96 (4) Education and safety. —

97 (A) Of the funds appropriated by the Legislature pursuant to §5B-1C-16 of this code, five  
98 percent shall be available for grants and cooperative agreements that either provide  
99 comprehensive education that teaches adventure travel vehicle safety, environmental  
100 responsibility, and respect for private property, or provide safety programs associated with  
101 adventure travel recreation.

102 (B) Any unencumbered funds under this paragraph shall be used only in future grant  
103 cycles for purposes consistent with this paragraph.

104 (c) Eligible grant and cooperative agreement applicants include:

105 (1) Cities, counties, and districts that have approval to apply for grant funds, in the form of  
106 a resolution from their governing body;

107 (2) State agencies for projects under subdivision (b)(2) of this section;

108 (3) Agencies of the United States;  
109 (4) Federally and state recognized Native American tribes; and  
110 (5) Educational institutions, certified community conservation corps, resource  
111 conservation districts, and other eligible nonprofit organizations for eligible projects described in  
112 subsection (f) of this section.

113 (d) Guidelines developed to implement this program shall at a minimum do all of the  
114 following:

115 (1) Distribute grants and cooperative agreements on a competitive basis, except for law  
116 enforcement grants allocated in accordance with subdivision (b)(3) of this section.

117 (2) Be developed with public input, including focus groups;

118 (3) Require applications to be in accordance with local or federal plans and the strategic  
119 plan for adventure travel recreation prepared by the office;

120 (4) Require grant applicants to comply with all West Virginia environmental protection  
121 laws. Applicants for cooperative agreements shall complete environmental review procedures as  
122 part of every application;

123 (5) Require the applicant to agree to provide matching funds or the equivalent value of  
124 services or material used, in an amount not less than 25 percent of the total project cost, except  
125 for the category of restoration, which shall not be less than 10 percent of the total project cost;

126 (6) Require the applicant, if it is a city or county, to disclose how fees collected are being  
127 used and whether the use of these fees complements the applicant's project; and

128 (7) Fund all eligible applications to the extent feasible.

129 (e) All grants and cooperative agreements involving ground disturbing activities shall be  
130 subject to the uniform application of soil and wildlife habitat protection §5B-1C-7 of this code.

131 (f) Grants may be awarded to educational institutions and nonprofit organizations. Eligible  
132 projects shall be limited to scientific research, natural resource conservation activities, trail and  
133 facility maintenance, restoration, and programs involving adventure travel vehicle safety or

134 education. If the application for grant funds involves activities on any public lands, all of the  
135 following shall apply:

136 (1) The applicant shall include a work plan for the project;

137 (2) The applicant shall provide written permission from the appropriate land manager to  
138 conduct a project, including a description of how the project fits with the land management goals  
139 of the area;

140 (3) The applicant shall provide matching funds or the equivalent value of volunteer  
141 services or material used, in an amount not less than 25 percent of the total project cost, except  
142 for the category of restoration, which shall not be less than 10 percent of the total project cost;  
143 and

144 (4) The applicant shall be fiscally responsible for adhering to the terms and conditions of  
145 the grants.

146 (g) The head or chief of the office shall not participate in the scoring of grants or  
147 cooperative agreements.

148 (h) The office shall establish an administrative appeal process as part of the grants and  
149 cooperative agreements program. At a minimum, this process shall do all of the following:

150 (1) Give applicants the right to appeal on the following grounds:

151 (A) The office failed to follow regulations established for the award of grants and  
152 cooperative agreements.

153 (B) The office lacked sufficient factual evidence to support or deny the award of a grant or  
154 cooperative agreement.

155 (2) Require the applicant to first appeal to the deputy director of the office. If that appeal  
156 is denied, the applicant may then appeal to the director of the office, or the director's appointee.

157 (3) Require applicants to file their first appeal within 30 calendar days following the notice  
158 of award or denial of a grant or cooperative agreement. Notice of the decision or the rejection of  
159 the appeal shall be issued within 60 days following the filing of an appeal.

160 (4) Require applicants to exhaust these appeal rights prior to seeking other legal remedies  
161 through the courts.

162 (i) A grant shall not be made, nor a cooperative agreement entered into, pursuant to this  
163 section without the approval of the director.

**§5B-1C-15. Special preconditions for grants and cooperative agreements.**

1 No funds may be granted or expended pursuant to §5B-1C-14 of this code, unless all of  
2 the following conditions are met:

3 (1) If the project involves a ground disturbing activity, the recipient has completed wildlife  
4 habitat and soil surveys and has prepared a wildlife habitat protection program to sustain a viable  
5 species composition for the project area;

6 (2) If the project involves a ground disturbing activity, the recipient agrees to monitor the  
7 condition of soils and wildlife in the project area each year in order to determine whether the soil  
8 conservation standards adopted pursuant to §5B-1C-7 of this code, and the wildlife habitat  
9 protection program prepared pursuant to subdivision (1) of this section are being met;

10 (3) If the project involves a ground disturbing activity, the recipient agrees that, whenever  
11 the soil conservation standards adopted pursuant to §5B-1C-7 of this code are not being met in  
12 any portion of a project area, the recipient shall close temporarily that noncompliant portion, to  
13 repair and prevent accelerated erosion, until the same soil conservation standards adopted  
14 pursuant to §5B-1C-7 of this code are met;

15 (4) If the project involves a ground disturbing activity, the recipient agrees that, whenever  
16 the wildlife habitat protection program prepared pursuant to subdivision (1) is not being met in any  
17 portion of a project area, the recipient shall close temporarily that noncompliant portion until the  
18 same wildlife habitat protection program prepared pursuant to subdivision (1) is met;

19 (5) The recipient agrees to enforce the registration of adventure travel vehicles and the  
20 other provisions of state motor vehicle laws for adventure travel vehicles and to enforce the other  
21 applicable laws regarding the operation of adventure travel vehicles;

22           (6) The recipient agrees to cooperate with appropriate law enforcement entities to provide  
23 proper law enforcement at and around the facility;

24           (7) The recipient has identified the potential for the facility to reduce illegal and  
25 unauthorized adventure travel recreation activities in the surrounding areas; and

26           (8) The recipient has included in its application a description of how it is meeting the  
27 operations and maintenance needs of any existing adventure travel recreation facility under its  
28 jurisdiction.

**§5B-1C-16. Adventure Travel Recreation Fund; definitions.**

1           As used in this article:

2           “Adventure travel recreation” means recreation using vehicles in overland transport and  
3 travel exclusively or in combination with highway travel;

4           “Adventure travel” means a form of recreation using sport-utility vehicles, or other vehicles,  
5 both motorized and non-motorized, suitable for travel on primitive roads, for multiday trekking and  
6 camping in remote areas without the need for, or access to, retail, dining, or support services for  
7 extended periods of the trip; and

8           “State-owned roads suitable for adventure travel recreation” means state-owned roads or  
9 highways that are on state-owned land or a part of the Division of Highways, as defined in §17-1-  
10 3 of this code.

**§5B-1C-17. Creation of the Adventure Travel Recreation Fund.**

1           There is hereby created in the Treasury a dedicated account to be known as the Adventure  
2 Travel Recreation Fund. Expenditures from the fund shall be for the purposes set forth in this  
3 article and shall be made only in accordance with appropriation by the Legislature. The Adventure  
4 Travel Recreation Fund may receive any gifts, grants, contributions, or other money from any  
5 source which is specifically designated for deposit in the fund and the fund is subject to annual  
6 appropriation of funds by the Legislature. Unexpended or unappropriated money in the fund does  
7 not revert to the General Fund.



**§5B-1C-18. Purposes and uses of the Adventure Travel Recreation Fund; comprehensive planning.**

1 Interest and principal from the Adventure Travel Recreation Fund shall be used solely for  
2 construction, reconstruction, repair, and maintenance of state-owned roads suitable for adventure  
3 travel recreation, and the payment of obligations incurred in the construction, reconstruction,  
4 repair, and maintenance of state-owned roads suitable for adventure travel recreation. These  
5 terms include the planning and acquisitions necessary to carry out the construction,  
6 reconstruction, repair, and maintenance of the roads and the development of mapping, signage,  
7 and access areas to facilitate the use of these roads by the public. Reconstruction, repair, and  
8 maintenance of roads shall also include the removal and rerouting of roadways as well as  
9 restoration, mitigation, and remediation work to protect or rehabilitate environmental, historical,  
10 or cultural areas adversely affected by existing roads or by new construction activities.

11 The executive director of the Department of Commerce, in collaboration with the  
12 commissioner of Highways, the director of the Division of Natural Resources, and the director of  
13 the Division of Forestry, shall develop a comprehensive plan for the identification, maintenance,  
14 construction, and interconnection of public roads suitable for Adventure travel recreation for which  
15 money from the Overland Recreation Fund may be expended pursuant to this section. This  
16 comprehensive plan shall be reviewed and revised on a regular basis, but not more often than  
17 annually, to maintain a system of public roads suitable for Adventure travel recreation in order to  
18 promote tourism, the enjoyment of public lands, and commerce across the state.

**§5B-1C-19. Adventure travel recreation grant programs; review and appeal process.**

1 (a) The West Virginia Department of Commerce shall develop and implement a grant and  
2 cooperative agreement program to support the planning, acquisition, development, maintenance,  
3 administration, operation, enforcement, restoration, and conservation of public roads suitable for  
4 Adventure travel recreation and access to them. Fifty percent of the money appropriated from the  
5 Adventure Travel Recreation Fund shall be dedicated to the grant and cooperative agreement

6 program.

7 (b) The grants and money for cooperative agreements from available funds may be  
8 awarded or expended in accordance with the following categories:

9 (1) Construction and maintenance. — Under this subdivision, funds shall be available for  
10 grants and cooperative agreements for the acquisition, construction, operation, planning,  
11 development, or conservation of public roads and associated facilities suitable for adventure travel  
12 recreation. Guidelines developed to implement this subdivision shall at a minimum:

13 (A) Give preference to applications that sustain existing or extend authorized adventure  
14 travel recreation opportunities; and

15 (B) Give additional consideration to applications that improve facilities for access to  
16 adventure travel recreation opportunities.

17 (2) Reconstruction and Restoration. — Under this subdivision, funds shall be available for  
18 grants and cooperative agreements for projects that restore, or repair habitat damaged by  
19 adventure travel recreation.

20 (A) Eligible projects include:

21 (i) Removal of a road or trail or restoration of an area associated with the rerouting and  
22 subsequent closure of a designated road or trail;

23 (ii) Removal of roads or trails and the restoration of damaged habitats in any area that is  
24 not designated for motorized vehicle use;

25 (iii) The removal of closed roads or trails, or a portion of a closed road or trail, that will help  
26 to prevent off-highway motor vehicle access to closed areas;

27 (iv) Scientific and cultural studies regarding the impact of Adventure travel recreation not  
28 otherwise required by state or federal laws;

29 (v) Planning to identify appropriate restoration techniques, strategies, and project  
30 implementation, including planning associated with environmental review; and

31 (vi) Restoration projects that generally improve and restore the function of natural resource

32 systems damaged by adventure travel recreation activities.

33 (B) Applications that would affect lands identified as inventoried roadless areas by the  
34 Forest Service of the United States Department of Agriculture are eligible for cooperative  
35 agreements under this subdivision if the application is for a project that does any of the following:

36 (i) Realigns a forest system road or trail to prevent irreparable resource damage that arises  
37 from the design, location, use, or deterioration of a classified route and that cannot be mitigated  
38 by route maintenance;

39 (ii) Reconstructs a national forest system road or trail to implement a route safety  
40 improvement project on a classified route determined to be hazardous based on accident  
41 experience or accident potential on that route; or

42 (iii) Maintains a road that is included in the National Forest System Roads and Trails on  
43 or before January 1, 2009.

44 (C) Rules and program guidelines developed to implement this subdivision shall at a  
45 minimum do all the following:

46 (i) Consider applications for projects that will restore areas that have experienced the most  
47 damage from motorized use or face the highest threat of significant environmental damage from  
48 motorized use; and

49 (ii) Encourage public agencies managing lands to prepare and implement a management  
50 and enforcement plan to prevent recurring damage from unauthorized use.

51 (c) Eligible applicants include local, state, and federal agencies, federally or state-  
52 recognized Native American Tribes, educational institutions, certified community conservation  
53 corps, resource conservation districts, and nonprofit organizations with demonstrable knowledge,  
54 skill, or experience relevant to the proposed project.

55 (d) Legislative and procedural rules developed to implement programs authorized by this  
56 section shall promote the following objectives:

57 (1) Distribute grants and cooperative agreements on a competitive basis;

58 (2) Be developed with public input, including focus groups;

59 (3) Require applications to be in accordance with local or federal plans and the strategic  
60 plan for adventure travel recreation prepared by the office;

61 (4) Require grant applicants to comply with the state's environmental laws;

62 (5) Require the applicant to agree to provide matching funds or the equivalent value of  
63 services or material used, in an amount not less than 25 percent of the total project cost, except  
64 for the category of restoration, which may not be less than 10 percent of the total project cost;  
65 and

66 (6) Fund all eligible applications to the extent feasible.

67 (e) Every grant award involving activities on any public lands shall be subject to the  
68 following conditions:

69 (1) The applicant shall include a work plan for the project;

70 (2) The applicant shall provide written permission from the appropriate land manager to  
71 conduct a project, including a description of how the project fits with the land management goals  
72 of the area;

73 (3) The applicant shall provide matching funds or the equivalent value of volunteer  
74 services or material used, in an amount not less than 25 percent of the total project cost, except  
75 for the category of restoration, which may not be less than 10 percent of the total project cost;  
76 and

77 (4) The applicant shall be fiscally responsible for adhering to the terms and conditions of  
78 the grants.

79 (f) All grants and cooperative agreements involving ground disturbing activities shall be  
80 subject to the uniform application of soil and wildlife habitat protection standards. If the project  
81 involves a ground disturbing activity:

82 (1) The recipient shall also prepare a wildlife habitat protection program to sustain a viable  
83 species composition for the project area and agrees that, whenever that program is not being met

84 in any portion of a project area, the recipient shall close temporarily that noncompliant portion  
85 until the program's requirements are met;

86 (2) The recipient agrees that if there is soil erosion in any portion of a project area, the  
87 recipient shall close temporarily that noncompliant portion to repair and prevent accelerated  
88 erosion;

89 (3) The recipient has identified the potential for the project to reduce illegal and  
90 unauthorized motor vehicle use, both on-highway and off-highway activities, in the surrounding  
91 areas; and

92 (4) The recipient has included in the application a description of how it is meeting and will  
93 meet the operations and maintenance needs of any existing project under its jurisdiction.

94 (g) The office shall conduct an annual review of the grants and cooperative agreements  
95 program to evaluate the effectiveness of the awarded activities in serving the office's  
96 comprehensive recreation plan to guide the office in consideration of future project applications.

97 (h) The office shall establish an appeal process as part of the grants and cooperative  
98 agreements program, subject to the following conditions:

99 (1) Any person may petition the executive director for an appeal upon the following  
100 grounds:

101 (A) The office failed to follow regulations established for the award of grants and  
102 cooperative agreements; and

103 (B) The office lacked sufficient factual evidence to support or deny the award of a grant or  
104 cooperative agreement;

105 (2) A petition for appeal must be filed in writing within 30 calendar days following the notice  
106 of award or denial of a grant or cooperative agreement. Notice of the decision or the rejection of  
107 the appeal shall be issued within 60 days following the filing of an appeal; and

108 (3) A person aggrieved by the award or denial of a grant or funding for a cooperative  
109 agreement is required to exhaust this appeal process prior to seeking other legal remedies

## CHAPTER 11. TAXATION

### ARTICLE 14C. MOTOR FUEL EXCISE TAX.

#### §11-14C-47. Disposition of tax collected; dedicated receipts; reports.

(a) There is hereby created and established in the State Treasury a special revolving fund to be known and designated as the "Motor Fuel General Tax Administration Fund." The commissioner is authorized to retain one half of one percent of the tax collected pursuant to the provisions of this article: *Provided*, That in any fiscal year in which the tax collected pursuant to the provisions of this article exceed \$300 million, the commissioner is authorized to retain an additional one percent of the tax in excess of the \$300 million that is collected. The amounts retained by the commissioner under this subsection shall be deposited in the Motor Fuel General Tax Administration Fund and may be expended for the general administration of taxes imposed by this chapter.

(b) All remaining tax collected under the provisions of this article after deducting the amount of any refunds lawfully paid shall be paid into the State Road Fund and used only for the purpose of construction, reconstruction, maintenance and repair of highways, matching of federal moneys available for highway purposes and payment of the interest and sinking fund obligations on state bonds issued for highway purposes: *Provided*, That .003% of the taxes collected under the provisions of this article in any given year, after deducting the amount of any refunds lawfully paid that are derived from off-highway vehicle use, shall be earmarked for use in the Division of Highways, with consultation with the Department of Commerce, to pay for new mapping use, through its graphic information system (GIS), to totally identify all public roads, their condition, and types of the surface.

(c) Not less than monthly, beginning July 1, 2007, the Commissioner of Highways shall report to the Joint Committee on Government and Finance or its designated subcommittee on the

amount of tax paid into the State Road Fund under subsection (b) of this section, any matching federal funds, and all expenditures therefrom.

## **CHAPTER 17. ROADS AND HIGHWAYS**

### **ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

#### **§17-2A-8. Powers, duties, and responsibilities of commissioner.**

1           In addition to all other duties, powers and responsibilities given and assigned to the  
2 commissioner in this chapter, the commissioner may:

3           (1) Exercise general supervision over the state road program and the construction,  
4 reconstruction, repair and maintenance of state roads and highways: *Provided*, That the  
5 commissioner shall implement reasonable design techniques intended to minimize damage that  
6 may result from recurring floods within the purpose and need of the state road system;

7           (2) Determine the various methods of road construction best adapted to the various  
8 sections and areas of the state and establish standards for the construction and maintenance of  
9 roads and highways in the various sections and areas of the state;

10           (3) Conduct investigations and experiments, hold hearings and public meetings and attend  
11 and participate in meetings and conferences within and without the state for purposes of acquiring  
12 information, making findings and determining courses of action and procedure relative to  
13 advancement and improvement of the state road and highway system;

14           (4) Enter private lands to make inspections and surveys for road and highway purposes;

15           (5) Acquire, in name of the department, by lease, grant, right of eminent domain or other  
16 lawful means all lands and interests and rights in lands necessary and required for roads, rights-  
17 of-way, cuts, fills, drains, storage for equipment and materials and road construction and  
18 maintenance in general;

19           (6) Procure photostatic copies of any or all public records on file at the State Capitol of  
20 Virginia which may be considered necessary or proper in ascertaining the location and legal status

21 of public road rights-of-way located or established in what is now the State of West Virginia, which  
22 when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of  
23 the courts of this state;

24 (7) Plan for and hold annually a school of good roads, of not less than three or more than  
25 six days' duration, for instruction of his or her employees, which is held in conjunction with West  
26 Virginia University and may be held at the university or at any other suitable place in the state;

27 (8) Negotiate and enter in reciprocal contracts and agreements with proper authorities of  
28 other states and of the United States relating to and regulating the use of roads and highways  
29 with reference to weights and types of vehicles, registration of vehicles and licensing of operators,  
30 military and emergency movements of personnel and supplies and all other matters of interstate  
31 or national interest;

32 (9) Classify and reclassify, locate and relocate, expressway, trunkline, feeder, and state  
33 local service roads and designate by number the routes within the state road system;

34 (10) Create, extend or establish, upon petition of any interested party or parties or on the  
35 commissioner's own initiative, any new road or highway found necessary and proper;

36 (11) Exercise jurisdiction, control, supervision and authority over local roads, outside the  
37 state road system, to the extent determined by him or her to be expedient and practicable;

38 (12) Discontinue, vacate and close any road or highway, or any part of any road or  
39 highway, the continuance and maintenance of which are found unnecessary and improper, upon  
40 petition and hearing or upon investigation initiated by the commissioner: Provided, That any  
41 petition, motion, notice, decision, order and action taken related to the abandonment and  
42 discontinuance of any road or highway, or any part thereof, shall be publicly posted by the  
43 commissioner, Division of Highways and/or the highways program planning and administration  
44 division on the state website for the Division of Highways: *Provided, however,* That any citizen  
45 member of the public who wishes to participate in or attend any hearing related to the  
46 abandonment and discontinuance of any road or highway, as provided in section 3 of the



47 Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157 CSR 1,  
48 shall be allowed to participate in or attend by a virtual platform including, but not limited to, Zoom,  
49 Microsoft Teams, or Skype;

50 (13) Close any state road while under construction or repair and provide a temporary road  
51 during the time of the construction or repair;

52 (14) Adjust damages occasioned by construction, reconstruction or repair of any state  
53 road or the establishment of any temporary road;

54 (15) Establish and maintain a uniform system of road signs and markers;

55 (16) Fix standard widths for road rights-of-way, bridges and approaches to bridges and fix  
56 and determine grades and elevations therefor;

57 (17) Test and standardize materials used in road construction and maintenance, either by  
58 governmental testing and standardization activities or through contract by private agencies;

59 (18) Allocate the cost of retaining walls and drainage projects, for the protection of a state  
60 road or its right-of-way, to the cost of construction, reconstruction, improvement or maintenance;

61 (19) Acquire, establish, construct, maintain and operate, in the name of the department,  
62 roadside recreational areas along and adjacent to state roads and highways;

63 (20) Exercise general supervision over the construction and maintenance of airports and  
64 landing fields under the jurisdiction of the West Virginia State Aeronautics Commission, of which  
65 the commissioner is a member, and make a study and general plan of a statewide system of  
66 airports and landing fields;

67 (21) Provide traffic engineering services to municipalities of the state upon request of the  
68 governing body of any municipality and upon terms that are agreeably arranged;

69 (22) Institute complaints before the Public Service Commission or any other appropriate  
70 governmental agency relating to freight rates, car service and movement of road materials and  
71 equipment;

72 (23) Invoke any appropriate legal or equitable remedies, subject to section seven of this

73 article, to enforce his or her orders, to compel compliance with requirements of law and to protect  
74 and preserve the state road and highway system or any part of the system;

75 (24) Make and promulgate rules for the government and conduct of personnel, for the  
76 orderly and efficient administration and supervision of the state road program and for the effective  
77 and expeditious performance and discharge of the duties and responsibilities placed upon him or  
78 her by law;

79 (25) Delegate powers and duties to his or her appointees and employees who shall act by  
80 and under his or her direction and be responsible to him or her for their acts;

81 (26) Designate and define any construction and maintenance districts within the state road  
82 system that is found expedient and practicable;

83 (27) Contract for the construction, improvement and maintenance of the roads;

84 (28) Comply with provisions of present and future federal aid statutes and regulations,  
85 including execution of contracts or agreements with and cooperation in programs of the United  
86 States government and any proper department, bureau or agency of the United States  
87 government relating to plans, surveys, construction, reconstruction, improvement and  
88 maintenance of state roads and highways;

89 (29) Prepare budget estimates and requests;

90 (30) Establish a system of accounting covering and including all fiscal and financial  
91 matters of the department;

92 (31) Establish and advance a right-of-way Acquisition Revolving Fund, a Materials  
93 Revolving Fund and an Equipment Revolving Fund;

94 (32) Regulate motorized vehicle access on all land under the control of the division.

95 ~~(32)~~ (33) Enter into contracts and agreements with and cooperate in programs of counties,  
96 municipalities and other governmental agencies and subdivisions of the state relating to plans,  
97 surveys, construction, reconstruction, improvement, maintenance and supervision of highways,  
98 roads, streets and other travel ways when and to the extent determined by the department to be

99 expedient and practical;

100 ~~(33)~~ (34) Report, as provided by law, to the Governor and the Legislature;

101 ~~(34)~~ (35) Purchase materials, supplies and equipment required for the state road program

102 and system;

103 ~~(35)~~ (36) Dispose of all obsolete and unusable and surplus supplies and materials which

104 cannot be used advantageously and beneficially by the department in the state road program by

105 transfer of the supplies and materials to other governmental agencies and institutions by

106 exchange, trade or sale of the supplies and materials;

107 ~~(36)~~ (37) Investigate road conditions, official conduct of department personnel and fiscal

108 and financial affairs of the department and hold hearings and make findings thereon or on any

109 other matters within the jurisdiction of the department;

110 ~~(37)~~ (38) Establish road policies and administrative practices;

111 ~~(38)~~ (39) Fix and revise from time to time tolls for transit over highway projects constructed

112 by the Division of Highways after May 1, 1999, that have been authorized by the provisions of

113 §17-17A-5b of this chapter;

114 ~~(39)~~ (40) Take actions necessary to alleviate any conditions as the Governor may declare

115 to constitute an emergency, whether or not the emergency condition affects areas normally under

116 the jurisdiction of the Division of Highways; and

117 ~~(40)~~ (41) Provide family restrooms at all rest areas along interstate highways in this state,

118 all to be constructed in accordance with federal law.

**§17-2A-11a. Inventory and mapping of all roads in state forests, state parks, national forests and national parks.**

1 (a) The Division of Highways, in conjunction with the Division of Natural Resources and

2 the Division of Forestry, before July 1, 2022, shall map and make available to the public a

3 comprehensive inventory of forest roads that are state roads.

4 (b) The inventory shall meet both of the following requirements:

5 (1) Identify the location, condition, and surface type of road in the state forests, state parks,  
6 national forests and national parks; and

7 (2) Determine types of motorized and nonmotorized use currently restricted on each park  
8 and forest road segment and the seasons during which those uses are currently restricted.

## **ARTICLE 19. GENERAL CRIMINAL PROVISIONS.**

### **§17-19-16. Illegal gates on public roads; reporting mechanism; effective date.**

1 (a) This code section shall establish a system by which members of the public may report  
2 any instances of gates being illegally placed or fixated upon public roadways in West Virginia.

3 (b) Said system will also function as a mechanism for the public to report downed trees  
4 and other blockages upon public roadways in West Virginia.

5 (b) The West Virginia Division of Highways shall establish a toll-free hotline or telephone  
6 number which the public can call to report any illegal gating or blocking and shall also establish a  
7 webpage with an online procedure to report the illegal gating and blocking of roads, including a  
8 means to attach pictures of the gate. The reporting individual should include their contact  
9 information and include the county and roadway which is being blocked, and if possible, the GPS  
10 coordinates of the blockage, so that the West Virginia Division of Highways may be able to  
11 determine the exact location.

12 (c) When the West Virginia Division of Highways confirms that a public road is being  
13 blocked, then it shall establish a process of in-person verification by district Division of Highways  
14 personnel. After this process is completed, and if there is found to be an illegal gate or obstruction,  
15 then the Division of Highways shall report the blockage to local law enforcement in the county of  
16 the blockage for removal of the illegal obstruction. After receiving a report from the public, the  
17 Division of Highways must confirm the existence of the blockage within 30 days, and if there is a  
18 confirmed blockage, then the Division shall have 5 days to report the blockage to local law  
19 enforcement for their removal.

20 (d) This section shall become effective on July 31, 2021.

## CHAPTER 20. NATURAL RESOURCES

### ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

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

1           In addition to all other powers, duties, and responsibilities granted and assigned to the  
2 director in this chapter and elsewhere by law, the director may:

3           (1) With the advice of the commission, (1), prepare and administer, through the various  
4 divisions created by this chapter, a long-range comprehensive program for the conservation of  
5 the natural resources of the state which best effectuates the purpose of this chapter and which  
6 makes adequate provisions for the natural resources laws of the state;

7           (2) Sign and execute in the name of the state by the Division of Natural Resources any  
8 contract or agreement with the federal government or its departments or agencies, subdivisions  
9 of the state, corporations, associations, partnerships, or individuals: *Provided*, That  
10 intergovernmental cooperative agreements and agreements with nongovernmental organizations  
11 in furtherance of providing a comprehensive program for the exploration, conservation,  
12 development, protection, enjoyment, and use of the natural resources of the state are exempt  
13 from the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That repair, renovation  
14 and rehabilitation of existing facilities, buildings, amenities, and infrastructure necessary to protect  
15 public health or safety or to provide uninterrupted enjoyment and public use of state parks, state  
16 forests, wildlife management areas, and state natural areas under the jurisdiction of the Division  
17 of Natural Resources are exempt from the provisions of §5A-3-1 *et seq.* of this code. Nothing in  
18 this section authorizes new construction of buildings and new construction of recreational facilities  
19 as defined in §20-5-4 of this code without complying with the provisions of §5A-3-1 *et seq.* of this  
20 code.

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

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

26 (5) Prescribe the locality in which the manner and method by which the various species of  
27 wildlife may be taken, or chased, unless otherwise specified by this chapter.

28 (6) Hold at least six meetings each year at such time and at such points within the state,  
29 as in the discretion of the Natural Resources Commission may appear to be necessary and proper  
30 for the purpose of giving interested persons in the various sections of the state an opportunity to  
31 be heard concerning open season for their respective areas, and report the results of the meetings  
32 to the Natural Resources Commission before the season and bag limits are fixed by it;

33 (7) Suspend open hunting season upon any or all wildlife in any or all counties of the state  
34 with the prior approval of the Governor in case of an emergency such as a drought, forest fire  
35 hazard, or epizootic disease among wildlife. The suspension shall continue during the existence  
36 of the emergency and until rescinded by the director. Suspension, or reopening after such  
37 suspension, of open seasons may be made upon 24 hours' notice by delivery of a copy of the  
38 order of suspension or reopening to the wire press agencies at the State Capitol;

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

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

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

45 (11) Acquire for the state in the name of the Division of Natural Resources by purchase,  
46 condemnation, lease, or agreement, or accept or reject for the state, in the name of the Division  
47 of Natural Resources, gifts, donations, contributions, bequests, or devises of money, security or  
48 property, both real and personal, and any interest in such property, including lands and waters,

49 which he or she deems suitable for the following purposes:

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

52 (b) For state parks or recreation areas for the purpose of preserving scenic, aesthetic,  
53 scientific, cultural, archaeological, or historical values or natural wonders, or providing public  
54 recreation;

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

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

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

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

62 (12) Capture, propagate, transport, sell, or exchange any species of wildlife as may be  
63 necessary to carry out the provisions of this chapter;

64 (13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser  
65 appointed by the director, from all lands under the jurisdiction and control of the director, except  
66 those lands that are designated as state parks and those in the Kanawha State Forest. The  
67 appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the  
68 office of the director and shall be available for public inspection. The director must obtain the  
69 written permission of the Governor to sell timber when the appraised value is more than \$5,000.  
70 The director shall receive sealed bids therefor, after notice by publication as a Class II legal  
71 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication  
72 area for the publication shall be each county in which the timber is located. The timber so  
73 advertised shall be sold at not less than the appraised value to the highest responsible bidder,  
74 who shall give bond for the proper performance of the sales contract as the director shall

75 designate; but the director may reject any and all bids and re-advertise for bids. If the foregoing  
76 provisions of this section have been complied with and no bid equal to or in excess of the  
77 appraised value of the timber is received, the director may, at any time, during a period of six  
78 months after the opening of the bids, sell the timber in such manner as he or she deems  
79 appropriate, but the sale price may not be less than the appraised value of the timber advertised.  
80 No contract for sale of timber made pursuant to this section may extend for a period of more than  
81 10 years. And all contracts heretofore entered into by the state for the sale of timber may not be  
82 validated by this section if a contract is otherwise invalid. The proceeds arising from the sale of  
83 the timber so sold shall be paid to the Treasurer of the State of West Virginia and shall be credited  
84 to the division and used exclusively for the purposes of this chapter: *Provided*, That nothing  
85 contained herein may prohibit the sale of timber which otherwise would be removed from rights-  
86 of-way necessary for and strictly incidental to the extraction of minerals;

87 (14) Sell or lease, with the approval in writing of the Governor, coal, oil, gas, sand, gravel,  
88 and any other minerals that may be found in the lands under the jurisdiction and control of the  
89 director, except those lands that are designated as state parks. The director, before making sale  
90 or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal  
91 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the  
92 publication area for such publication shall be each county in which such lands are located. The  
93 minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give  
94 bond for the proper performance of the sales contract or lease as the director shall designate; but  
95 the director may reject any and all bids and re-advertise for bids. The proceeds arising from any  
96 such sale or lease shall be paid to the Treasurer of the State of West Virginia and shall be credited  
97 to the division and used exclusively for the purposes of this chapter;

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



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

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

110 (18) Keep a complete and accurate record of all proceedings, record and file all bonds  
111 and contracts taken or entered into, and assume responsibility for the custody and preservation  
112 of all papers and documents pertaining to his or her office, except as otherwise provided by law;

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

115 (20) Require such reports as he or she may determine to be necessary from any person  
116 issued a license or permit under the provisions of this chapter, but no person may be required to  
117 disclose secret processes or confidential data of competitive significance;

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

119 (22) Conduct and encourage research designed to further new and more extensive uses  
120 of the natural resources of this state and to publicize the findings of the research;

121 (23) Encourage and cooperate with other public and private organizations or groups in  
122 their efforts to publicize the attractions of the state including, completing the feasibility study for  
123 the Beech Fork State Park Lodge as follows:

124 (a) The director shall convene, prior to October 1, 2019, two public hearings:

125 (i) An initial public hearing shall be for the purpose of seeking public input regarding  
126 options for the construction of a lodge and a conference center, including all available public,

127 private, or public-private partnership (PPP) funding and financing options; and

128 (ii) A subsequent public hearing at which the feasibility study and any recommendation  
129 shall be available for public comment;

130 (b) The public hearings required by this subdivision must be held in a suitable location  
131 reasonably close to Beech Fork State Park so as to accommodate public participation from the  
132 citizens of Cabell, Lincoln, and Wayne counties; and

133 (c) Upon completion of the feasibility study it shall be submitted by the director to the Joint  
134 Committee on Government and Finance on or before December 1, 2019;

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

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

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

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

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

153 (29) Authorize the payment of all or any part of the reasonable expenses incurred by an  
154 employee of the division in moving his or her household furniture and effects as a result of a  
155 reassignment of the employee: *Provided*, That no part of the moving expenses of any one such  
156 employee may be paid more frequently than once in 12 months;

157 (30) Establishing procedures and fee schedule for individuals applying for limited permit  
158 hunts; ~~and~~

159 (31) Exempt designated sections within the Division of Natural Resources from the  
160 requirement that all payments must be deposited in a bank within 24 hours for amounts less than  
161 \$500 notwithstanding any other provision of this code to the contrary: *Provided*, That such  
162 designated sections shall make a deposit in any amount no less than every seven working days;  
163 ~~and~~

164 (32) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code,  
165 to implement and make effective the powers and duties vested in him or her by the provisions of  
166 this chapter and take such other steps as may be necessary in his or her discretion for the proper  
167 and effective enforcement of the provisions of this chapter;

168 (33) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code,  
169 to implement and make effective the powers and duties vested in him or her by the provisions of  
170 this chapter relating to qualifications of outfitters and guides as provided in §20-2-24 of this code.  
171 The rules shall be consistent with the federal outfitter and guide operating guidelines as set out  
172 in Appendix H of the USDA Forest Service Outfitter and Guide Operating Guidelines as far as  
173 compatible with this chapter. The rules shall require training for outfitters and permit outfitters and  
174 guides offer services for jeep tours with fees assessed by the director; and

175 (34) Cooperate with the State Resiliency Office to the fullest extent practicable to assist  
176 that office in fulfilling its duties.

## **ARTICLE 2. WILDLIFE RESOURCES.**

### **§20-2-24. Outfitters and guides -- Qualifications.**

1 Each outfitter and guide licensed under the provisions hereof shall be a financially  
2 responsible citizen of the United States of America. He or she shall possess and inventory proper  
3 and adequate materials and equipment to provide for hunters, fishermen and others the services  
4 and conveniences he or she advertises. All such materials and equipment shall be safe and free  
5 of infection and conditions inimical to the health and well-being of hunters, fishermen, their  
6 traveling, camping, and lodging companions.

7 The director shall cause all outfitter and guide applicants to be investigated and shall make a  
8 determination of their qualifications prior to the issuance or refusal of licenses thereto. The director  
9 shall promulgate rules, in accordance with the provisions of §29A-1-1 et seq. of this code,  
10 requiring outfitters and guides to receive such training considered by the director necessary to  
11 meet qualifications as outfitters and guides, including training related to providing services for jeep  
12 tours.

**§20-2-43. Class WV resident and Class WVV nonresident wildlife viewing stamp.**

1 A Class WV stamp is a resident wildlife viewing stamp. A Class WVV stamp is a  
2 nonresident wildlife viewing stamp. These stamps entitle the licensee to view wildlife in all  
3 counties of the state on State-owned property and roads, including fire roads, select access roads,  
4 and roads that normally are gated, between Memorial Day and Labor Day, and for the entire year  
5 for persons holding a Class Q special hunting permit, except as prohibited by rules of the director,  
6 in a regularly licensed vehicle, and excluding all utility-terrain vehicles (UTVs) and all-terrain  
7 vehicles (ATVs), regardless of registration status as a street legal special purpose vehicle. The  
8 fee for a Class WV and Class WVV stamps are to be set at the discretion of the director. The  
9 revenue derived from the sale of these stamps shall be deposited in the State Treasury and  
10 credited to the Division of Natural Resources and shall be used and paid out, upon order of the  
11 director, for wildlife resource program expenses. These stamps, issued in a form prescribed by  
12 the director, shall be in addition to a hunting or fishing license or Class Q permit. These stamps  
13 require that the licensee purchase an appropriate base hunting or fishing license, as determined

14 by the director, before participating in the activities specified in this section, except as noted. This  
15 section shall not apply to Coopers Rock State Forest or Kanawha State Forest.

## **ARTICLE 5. PARKS AND RECREATION.**

### **§20-5-2. Powers of the director with respect to the section of parks and recreation.**

1 (a) The Director of the Division of Natural Resources is responsible for the execution and  
2 administration of the provisions in this article as an integral part of the parks and recreation  
3 program of the state and shall organize and staff the section of parks and recreation for the  
4 orderly, efficient, and economical accomplishment of these ends. The authority granted in the  
5 year 1994 to the Director of the Division of Natural Resources to employ up to six additional  
6 unclassified personnel to carry out the parks' functions of the Division of Natural Resources is  
7 continued.

8 (b) The Director of the Division of Natural Resources shall:

9 (1) Establish, manage, and maintain the state's parks and recreation system for the benefit  
10 of the people of this state and do all things necessary and incidental to the development and  
11 administration of the state's parks and recreation system;

12 (2) Acquire property for the state in the name of the Division of Natural Resources by  
13 purchase, lease or agreement; retain, employ and contract with legal advisors and consultants;  
14 or accept or reject for the state, in the name of the division, gifts, donations, contributions,  
15 bequests or devises of money, security, or property, both real and personal, and any interest in  
16 the property, including lands and waters, for state park or recreational areas for the purpose of  
17 providing public recreation: *Provided*, That the provisions of section §20-1-20 *et seq.* of this code  
18 are specifically made applicable to any acquisitions of land: *Provided, however*, That any sale,  
19 exchange or transfer of property for the purposes of completing land acquisitions or providing  
20 improved recreational opportunities to the citizens of the state is subject to the procedures of §5a-  
21 10-1 *et seq.* of this code: *Provided further*, That no sale of any park or recreational area property,  
22 including lands and waters, used for purposes of providing public recreation on the effective date

23 of this article and no privatization of any park may occur without statutory authority;

24 (3) Approve and direct the use of all revenue derived from the operation of the state parks  
25 and public recreation system for the operation, maintenance, and improvement of the system,  
26 individual projects of the system or for the retirement of park development revenue bonds:  
27 *Provided*, That all revenues derived from the operation of the state parks and public recreation  
28 system shall be invested by the Treasurer and all proceeds from investment earnings shall accrue  
29 for the exclusive use for the operation, maintenance, and improvement of the system, individual  
30 projects of the system or for the retirement of park development revenue bonds;

31 (4) Effectively promote and market the state's parks, state forests, state recreation areas  
32 and wildlife recreational resources by approving the use of no less than 20 percent of the:

33 (A) Funds appropriated for purposes of advertising and marketing expenses related to the  
34 promotion and development of tourism, pursuant to §29-22-18(j) of this code; and

35 (B) Funds authorized for expenditure from the Tourism Promotion Fund for purposes of  
36 direct advertising, pursuant to §5B-2-12 and §29-22A-10 of this code;

37 (5) Issue park development revenue bonds as provided in this article;

38 (6) Provide for the construction and operation of cabins, lodges, resorts, restaurants, and  
39 other developed recreational service facilities, subject to the provisions of §20-5-15 and §20-1-20  
40 of this code;

41 (7) The director may sell timber that has been severed in a state park incidental to the  
42 construction of park facilities or related infrastructure where the construction is authorized by the  
43 Legislature in accordance with §20-1-20 of this code, and the sale of the timber is otherwise in  
44 the best interest of park development, without regard to proceeds derived from the sale of timber.  
45 The gross proceeds derived from the sale of timber shall be deposited into the operating budget  
46 of the park from which the timber was harvested;

47 (8) Propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et*  
48 *seq.* of this code to control the uses of parks: *Provided*, That the director may not permit public

49 hunting, except as otherwise provided in this section, the exploitation of minerals or the harvesting  
50 of timber for commercial purposes in any state park;

51 (9) Exempt designated state parks from the requirement that all payments must be  
52 deposited in a bank within 24 hours for amounts less than \$500 notwithstanding any other  
53 provision of this code to the contrary: *Provided*, That such designated parks shall make a deposit  
54 in any amount no less than every seven working days;

55 (10) Waive the use fee normally charged to an individual or group for one day's use of a  
56 picnic shelter or one week's use of a cabin in a state recreation area when the individual or group  
57 donates the materials and labor for the construction of the picnic shelter or cabin: *Provided*, That  
58 the individual or group was authorized by the director to construct the picnic shelter or cabin and  
59 that it was constructed in accordance with the authorization granted and the standards and  
60 requirements of the division pertaining to the construction. The individual or group to whom the  
61 waiver is granted may use the picnic shelter for one reserved day or the cabin for one reserved  
62 week during each calendar year until the amount of the donation equals the amount of the loss of  
63 revenue from the waiver or until the individual dies or the group ceases to exist, whichever first  
64 occurs. The waiver is not transferable. The director shall permit free use of picnic shelters or  
65 cabins to individuals or groups who have contributed materials and labor for construction of picnic  
66 shelters or cabins prior to the effective date of this section. The director shall propose a legislative  
67 rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code governing the free  
68 use of picnic shelters or cabins provided in this section, the eligibility for free use, the  
69 determination of the value of the donations of labor and materials, the appropriate definitions of a  
70 group and the maximum time limit for the use;

71 (11) Provide within the parks a market for West Virginia arts, crafts, and products, which  
72 shall permit gift shops within the parks to offer for sale items purchased on the open market from  
73 local artists, artisans, craftsmen, and suppliers and local or regional crafts cooperatives;

74 (12) Provide that reservations for reservable campsites may be made, upon two days'

75 advance notice, for any date for which space is available within a state park or recreational area  
76 managed by the parks and recreation section;

77 (13) Provide that reservations for all state parks and recreational areas managed by the  
78 parks and recreation section of the division may be made by use of a valid credit card;

79 (14) Develop a plan to establish a centralized computer reservation system for all state  
80 parks and recreational areas managed by the parks and recreation section and to implement the  
81 plan as funds become available; and

82 (15) Notwithstanding the provisions of §20-2-58 of this code, the Natural Resources  
83 Commission is authorized to promulgate rules in accordance with the provisions of §29A-3-1 *et*  
84 *seq.* of this code to permit and regulate the hunting of white-tail deer in any state park as  
85 considered appropriate by the director to protect the ecological integrity of the area.

86 (16) Permit the use of drones within State Parks, Forests and Rail Trails. Persons who  
87 intend to operate an unmanned aircraft system shall register at the area superintendent's office  
88 prior to engaging or participating in the operation of any unmanned aircraft system and specify  
89 where the activity will take place. A superintendent may only prohibit, issue directives, or  
90 implement time and place restrictions on unmanned aircraft system use in areas or portions  
91 thereof in order to: (i) Protect the safety and privacy of other park users, (ii) protect area facilities,  
92 (iii) protect the peaceful and quiet atmosphere of the area, or (iv) prevent harassment of wildlife.  
93 Upon registration the superintendent shall provide a list and map to the unmanned aircraft system  
94 operator of any prohibited areas within the park. Participants in drone operation activities assume  
95 full responsibility and liability for any risk or injury related to using an unmanned aircraft system.

96 (17) Permit dispersed camping for wildlife viewing in secluded, remote areas of state-  
97 owned property DNR managed with connecting trails between Memorial Day and Labor Day and  
98 for the entire year for persons holding a Class Q special hunting permit, except as prohibited by  
99 rules of the director, excluding all utility-terrain vehicles (UTVs) and all-terrain vehicles (ATVs),  
100 regardless of registration status as a street legal special purpose vehicle: *Provided, That*



101 recreational vehicles (RVs), camper trailers, and ground fires are not allowed. Dispersed camping  
102 means being on public land, without neighbors, electricity, running water, bathroom facilities, and,  
103 often, cell service, and requires campers to leave no trace of their presence. Dispersed camping  
104 requires a stamp with an annual fee to be set by the director. These stamps, issued in a form  
105 prescribed by the director, shall be in addition to a hunting or fishing license or Class Q permit.  
106 These stamps require that the licensee purchase an appropriate base hunting or fishing license,  
107 as determined by the director, before participating in the activities specified in this section, except  
108 as noted. This subsection shall not apply to Coopers Rock State Forest and Kanawha State  
109 Forest.

**ARTICLE 17. MULTICOUNTY TRAIL NETWORK AUTHORITIES.**

**§20-17-20. Establishment of Adopt-A-Trail programs for paths and trails.**

1 (a) The West Virginia Division of Natural Resources shall establish an Adopt-A-Trail  
2 program that will allow volunteer groups to assist in maintaining and enhancing trails on state  
3 owned land.

4 (b) Subject to subsection (d) of this section, volunteer groups in the Adopt-A-Trail program  
5 may adopt any available trail or trail segment and may choose any one or more of the following  
6 volunteer activities:

7 (1) Spring cleanups;

8 (2) Accessibility projects;

9 (3) Special events;

10 (4) Trail maintenance, enhancement, or realignment;

11 (5) Public information and assistance; or

12 (6) Training.

13 (c) The Division shall designate and approve specific activities to be performed by a  
14 volunteer group in the Adopt-A-Trail program which shall be executed with an approved Adopt-A-

15 Trail agreement. Volunteer services shall not include work historically performed by department  
16 employees, including services that result in a reduction of hours or compensation or that may be  
17 performed by an employee on layoff; nor shall volunteer services be inconsistent with the terms  
18 of a collective bargaining agreement. The division may provide for more than one volunteer group  
19 to adopt an eligible trail or trail segment.

20 (d) If the division operates other programs in the vicinity of the trail that allows volunteers  
21 to participate in similar programs, the division shall coordinate these programs to provide for  
22 efficient and effective volunteer programs in the area.

23 (e) A volunteer group that wishes to participate in the Adopt-A-Trail program shall apply  
24 to the division on a form provided by the division. Volunteer groups shall agree to the following:

25 (1) Volunteer groups participate in the program for at least a 2-year period;

26 (2) Volunteer groups shall consist of at least 6 people who are 18 years of age or older,  
27 unless the volunteer group is a school, scout organization, or a religious youth group, in which  
28 case the volunteers may be under 18 years of age, but supervised by someone over the age of  
29 18;

30 (3) Volunteer groups shall contribute a total of at least 200 service hours over a 2-year  
31 period;

32 (4) Volunteer groups shall only execute Adopt-A-Trail projects and activities after a  
33 volunteer project agreement has been completed and approved by the division;

34 (5) Volunteer groups shall comply with all reasonable requirements of the division; and

35 (6) Volunteer groups shall, when applicable, help provide maintenance on the trail or path.

36 (f) The division shall allow the volunteer group to coordinate with the closest solid waste  
37 authority so that any tires, appliances, televisions, and trash may be properly disposed of with the  
38 proper documentation.

39 (g) This section shall become effective on July 1, 2021.

NOTE: The purpose of this bill is to encourage public access to and use of state roads and

trails.

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