



1 coordination of all state forests resources; advising the Governor  
2 and Legislature on all aspects of forestry, the management of state  
3 forests for conservation, protection and preservation of wildlife,  
4 fish, forest species, natural areas, aesthetic and scenic values  
5 and to provide developed and undeveloped outdoor recreational  
6 opportunities, and hunting and fishing for the citizens of this  
7 state and its visitors.

8 **§19-1A-3. Division of Forestry; Division Director; duties, powers,**  
9 **dedication of certain moneys; creation of a special**  
10 **revenue account.**

11 The Division of Forestry heretofore created is hereby  
12 continued. And, except as otherwise provided in this article, all  
13 powers and duties previously exercised by the Director of Natural  
14 Resources under subsection (13), section seven, article one and  
15 article three, chapter twenty of this code, except those powers and  
16 duties relating solely to wildlife areas as described in section  
17 three, article three, chapter twenty of this code, heretofore  
18 transferred to the Division of Forestry, are hereby continued in  
19 the Division of Forestry, except Kanawha State Forest as  
20 hereinafter provided. The Division of Forestry has within its  
21 jurisdiction and supervision the state forests, other forests and  
22 woodland areas, the protection of forest areas from injury and  
23 damage by fire, disease, insects and other pestilences and forces,

1 the management of forest areas for natural resources, conservation  
2 and undeveloped recreational activities, administration of the  
3 southeastern interstate forest fire protection compact and other  
4 compacts and agreements relating to forest management and  
5 husbandry, and the administration and enforcement of laws relating  
6 to the conservation, development, protection, use and enjoyment of  
7 all forest land areas of the state consistent with the provisions  
8 of sections one and two of this article: Provided, That the  
9 Division of Forestry may not change the designation of any stream  
10 classified by the U.S. Geological Survey. All moneys collected  
11 from the sale of timber realized through management of the state-  
12 owned forests and the sale of seedlings from the tree nurseries  
13 shall be paid into the State Treasury and shall be credited to a  
14 special account within the Division of Forestry and used  
15 exclusively for the purposes of this article and article three,  
16 chapter twenty of this code.

17 When the Division of Forestry is harvesting timber in state  
18 forests and other public lands as permitted pursuant to the  
19 provisions of this article and subsection (13), section seven,  
20 articles one and three, chapter twenty of this code, it shall  
21 maintain a minimum "no cut buffer" of three hundred feet adjacent  
22 to all trails, campgrounds, public facilities, forest roads, scenic  
23 points of interest, playgrounds, riparian zones, known endangered

1 species habitats and historical value areas. All trails which are  
2 used for timbering roads or otherwise damaged during the timbering  
3 operation must be returned to a prior condition that makes them  
4 viable recreation trails for hiking or other prior recreational use  
5 as soon as practicable.

6 The Division of Forestry has jurisdiction to regulate the  
7 growing, digging, collecting, gathering, possession and sale of  
8 ginseng as provided in section three-a of this article.

9 The chief of the division is the Director of the Division of  
10 Forestry who shall be appointed and qualified as provided in  
11 section five of this article.

12 The Director of the Division of Forestry shall study means and  
13 methods of implementing the provisions of section fifty-three,  
14 Article VI of the Constitution of West Virginia, relating to forest  
15 lands, and shall prepare and recommend legislation thereon.

16 The division lines within the state forests between improved  
17 recreation areas under the management of the Division of Natural  
18 Resources and the demonstration forests under the management of the  
19 Division of Forestry, heretofore established by agreement, are  
20 hereby continued with the exception of Kanawha State Forest where  
21 the entire forest will be managed by and under the jurisdiction of  
22 the Division of Natural Resources for multiple uses and the  
23 Division of Natural Resources shall continue to provide

1 recreational opportunities, including, but not limited to,  
2 mountain-biking trails, hiking trails, horseback-riding trails and  
3 hunting, fishing and trapping lands. The forest may not be  
4 designated as a state park or state recreation area; however, any  
5 sale of timber from Kanawha State Forest shall continue to be  
6 prohibited.

7 In the event of disagreement over the placement of a division  
8 line or dual occupancy of a building, the disposition shall be  
9 decided by the Legislature's Joint Committee on Government and  
10 Finance at a regularly scheduled meeting.

11 **ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING**  
12 **OPERATIONS.**

13 **§19-1B-3. Definitions.**

14 (a) "Best management practices" means sediment control  
15 measures, structural or nonstructural, used singly or in  
16 combination, to reduce soil runoff from land disturbances  
17 associated with commercial timber harvesting. When timbering  
18 operations are conducted on state forests or public lands pursuant  
19 to the Division of Forestry's authority to harvest timber under the  
20 provisions of article one-a of this chapter and subsection (13),  
21 section seven, articles one and three, chapter twenty of this code,  
22 "best management practices" means structural or nonstructural  
23 sediment control measures, watershed protection measures and

1 endangered species protection measures to reduce or eliminate  
2 disturbances associated with commercial timber harvesting.

3 (b) "Chief" means the Director of the Division of Water and  
4 Waste Management of the Department of Environmental Protection, or  
5 his or her designee.

6 (c) "Director" means the Director of the Division of Forestry  
7 of the Department of Commerce or his or her designee.

8 (d) "Operator" means any person who conducts timbering  
9 operations.

10 (e) "Timbering operation," or the plural, means activities  
11 directly related to the severing or removal of standing trees from  
12 the forest as a raw material for commercial processes or purposes.  
13 For the purpose of this article, timbering operations do not  
14 include the severing of evergreens grown for and severed for the  
15 traditional Christmas holiday season; the severing of trees  
16 incidental to ground-disturbing construction activities, including  
17 well sites, access roads and gathering lines for oil and natural  
18 gas operations; the severing of trees for maintaining existing, or  
19 during construction of, rights-of-way for public highways or public  
20 utilities or any company subject to the jurisdiction of the Federal  
21 Energy Regulatory Commission unless the trees so severed are being  
22 sold or provided as raw material for commercial wood product  
23 purposes; or the severing of trees by an individual on the

1 individual's own property for his or her individual use provided  
2 that the individual does not have the severing done by a person  
3 whose business is the severing or removal of trees.

4 (f) "Sediment" means solid particulate matter, usually soil or  
5 minute rock fragments, moved by wind, rainfall or snowmelt into the  
6 streams of the state.

NOTE: The purpose of this bill is to provide additional  
protections for state forests and other public lands where  
timbering operations are conducted.

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