

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1211

Session of  
1979

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INTRODUCED BY MESSRS. CIMINI, YAHNER, GEORGE, FRYER, DIETZ,  
MRS. CLARK, MESSRS. WAGNER, L. E. SMITH, E. H. SMITH,  
HALVERSON, DeMEDIO, GRIECO, STAIRS, PETERSON, GIEST,  
CUNNINGHAM, LEVI, MADIGAN, SPENCER, MISS SIRIANNI, MESSRS.  
THOMAS, S. E. HAYES, D. S. HAYES, FREIND AND MANDERINO,  
MAY 7, 1979

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SENATOR MELLOW, ENVIRONMENTAL RESOURCES, IN SENATE, AS AMENDED,  
OCTOBER 10, 1979

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AN ACT

1 ~~Amending the act of April 9, 1929 (P.L.177, No.175), entitled~~ <—  
2 ~~"An act providing for and reorganizing the conduct of the~~  
3 ~~executive and administrative work of the Commonwealth by the~~  
4 ~~Executive Department thereof and the administrative~~  
5 ~~departments, boards, commissions, and officers thereof,~~  
6 ~~including the boards of trustees of State Normal Schools, or~~  
7 ~~Teachers Colleges; abolishing, creating, reorganizing or~~  
8 ~~authorizing the reorganization of certain administrative~~  
9 ~~departments, boards, and commissions; defining the powers and~~  
10 ~~duties of the Governor and other executive and administrative~~  
11 ~~officers, and of the several administrative departments,~~  
12 ~~boards, commissions, and officers; fixing the salaries of the~~  
13 ~~Governor, Lieutenant Governor, and certain other executive~~  
14 ~~and administrative officers; providing for the appointment of~~  
15 ~~certain administrative officers, and of all deputies and~~  
16 ~~other assistants and employes in certain departments, boards,~~  
17 ~~and commissions; and prescribing the manner in which the~~  
18 ~~number and compensation of the deputies and all other~~  
19 ~~assistants and employes of certain departments, boards and~~  
20 ~~commissions shall be determined," regulating the harvesting~~  
21 ~~of Wild American Ginseng.~~

1 AMENDING THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), ENTITLED, <—  
2 AS AMENDED, "AN ACT PROVIDING FOR THE CONSERVATION AND  
3 IMPROVEMENT OF LAND AFFECTED IN CONNECTION WITH SURFACE  
4 MINING; REGULATING SUCH MINING; AND PROVIDING PENALTIES,"  
5 FURTHER PROVIDING FOR PAYMENT OF CERTAIN BOND REQUIREMENTS  
6 AND RESTRICTIONS ON THE ISSUANCE OF CERTAIN LICENSES.

7 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. The act of April 9, 1929 (P.L.177, No.175), known~~ <—  
3 ~~as "The Administrative Code of 1929," is amended by adding a~~  
4 ~~section to read:~~

5 ~~Section 1927 A. Wild American Ginseng. The Department of~~  
6 ~~Environmental Resources shall regulate the digging, harvesting,~~  
7 ~~sale and exportation of Wild American Ginseng (Panax~~  
8 ~~quinquefolius). The regulations shall (i) consider the~~  
9 ~~distribution, abundancy, economic value, growing and~~  
10 ~~reproduction cycle of Wild American Ginseng, (ii) establish~~  
11 ~~seasons for the digging and harvesting of the root of mature~~  
12 ~~Ginseng plants after the seeds are ripe and can be replanted but~~  
13 ~~not earlier than August 1 nor later than November 1, (iii)~~  
14 ~~provide for the licensing of persons who buy and hold with~~  
15 ~~intention to resell Ginseng roots within the Commonwealth or~~  
16 ~~export the root therefrom and to require the licensees to~~  
17 ~~maintain records of their transactions. Any person who wilfully~~  
18 ~~violates a regulation made pursuant to this section shall be~~  
19 ~~guilty of a summary offense and upon conviction thereof shall be~~  
20 ~~sentenced to pay a fine not exceeding one hundred dollars (\$100)~~  
21 ~~or to undergo imprisonment not exceeding ten days, or both.~~

22 ~~Section 2. This act shall take effect in 60 days.~~

23 SECTION 1. SUBSECTION (B) OF SECTION 3.1, ACT OF MAY 31, <—  
24 1945 (P.L.1198, NO.418), KNOWN AS THE "SURFACE MINING  
25 CONSERVATION AND RECLAMATION ACT," AMENDED DECEMBER 28, 1972  
26 (P.L.1662, NO.355), IS AMENDED TO READ:

27 SECTION 3.1. \* \* \*

28 (B) THE DEPARTMENT SHALL NOT ISSUE ANY NEW SURFACE MINING  
29 OPERATOR'S LICENSE OR RENEW ANY EXISTING SURFACE MINING  
30 OPERATOR'S LICENSE TO ANY PERSON OR OPERATOR IF [IT FINDS, AFTER

1 INVESTIGATION,] DUE PROCESS, HEARING AND FINDINGS OF FACT  
2 ESTABLISH THAT THE APPLICANT FOR LICENSURE OR RENEWAL HAS FAILED  
3 AND CONTINUES TO FAIL TO COMPLY WITH ANY OF THE PROVISIONS OF  
4 THIS ACT, OR OF ANY OF THE ACTS REPEALED OR AMENDED HEREBY.  
5 WHERE THE APPLICANT IS A CORPORATION, PARTNERSHIP OR  
6 ASSOCIATION, THE DEPARTMENT SHALL NOT ISSUE SUCH LICENSE OR  
7 RENEWAL IF, AFTER INVESTIGATION, IT FINDS THAT ANY OFFICER OR  
8 DIRECTOR OR PRINCIPAL OWNER OF SUCH CORPORATION, PARTNERSHIP OR  
9 ASSOCIATION HAS FAILED AND CONTINUES TO FAIL TO COMPLY WITH ANY  
10 OF THE PROVISIONS OF THIS ACT, OR OF ANY OF THE ACTS REPEALED OR  
11 AMENDED HEREBY, OR IF ANY SUCH OFFICER OR DIRECTOR OR PRINCIPAL  
12 OWNER IS OR HAS BEEN AN OFFICER OR DIRECTOR OR PRINCIPAL OWNER  
13 OF ANY OTHER CORPORATION, PARTNERSHIP OR ASSOCIATION, WHICH HAS  
14 FAILED AND CONTINUES TO FAIL TO COMPLY WITH ANY OF THE  
15 PROVISIONS OF THIS ACT, OR OF ANY OF THE ACTS REPEALED OR  
16 AMENDED HEREBY.

17 SECTION 2. SUBSECTION (C) OF SECTION 4 OF THE ACT, AMENDED  
18 NOVEMBER 30, 1971 (P.L.554, NO.147), IS AMENDED AND THE SECTION  
19 IS AMENDED BY ADDING A SUBSECTION TO READ:

20 SECTION 4. \* \* \*

21 (C) PRIOR TO COMMENCING SURFACE MINING, THE OPERATOR SHALL  
22 FILE WITH THE DEPARTMENT A BOND FOR THE LAND AFFECTED BY EACH  
23 OPERATION ON A FORM TO BE PRESCRIBED AND FURNISHED BY THE  
24 DEPARTMENT, PAYABLE TO THE COMMONWEALTH AND CONDITIONED THAT THE  
25 OPERATOR SHALL FAITHFULLY PERFORM ALL OF THE REQUIREMENTS OF  
26 THIS ACT AND OF THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),  
27 KNOWN AS "THE CLEAN STREAMS LAW." THE AMOUNT OF THE BOND  
28 REQUIRED SHALL BE IN AN AMOUNT DETERMINED BY THE SECRETARY BASED  
29 UPON THE TOTAL ESTIMATED COST TO THE COMMONWEALTH OF COMPLETING  
30 THE APPROVED RECLAMATION PLAN. SAID ESTIMATE SHALL BE BASED UPON

1 THE OPERATOR'S STATEMENT OF HIS ESTIMATED COST OF FULFILLING THE  
2 PLAN DURING THE COURSE OF HIS OPERATION, INSPECTION OF THE  
3 APPLICATION AND OTHER DOCUMENTS SUBMITTED, INSPECTION OF THE  
4 LAND AREA, AND SUCH OTHER CRITERIA AS MAY BE RELEVANT, INCLUDING  
5 THE PROPOSED LAND USE AND THE ADDITIONAL COST TO THE  
6 COMMONWEALTH WHICH MAY BE ENTAILED BY BEING REQUIRED TO BRING  
7 PERSONNEL AND EQUIPMENT TO THE SITE AFTER ABANDONMENT BY THE  
8 OPERATOR, IN EXCESS OF THE COST TO THE OPERATOR OF PERFORMING  
9 THE NECESSARY WORK DURING THE COURSE OF HIS SURFACE MINING  
10 OPERATIONS. WHEN THE PLAN INVOLVES THE RECONSTRUCTION OR  
11 RELOCATION OF ANY PUBLIC ROAD OR HIGHWAY, THE AMOUNT OF THE BOND  
12 SHALL INCLUDE AN AMOUNT SUFFICIENT TO FULLY BUILD OR RESTORE THE  
13 ROAD OR HIGHWAY TO A CONDITION APPROVED BY THE DEPARTMENT OF  
14 TRANSPORTATION. NO BOND SHALL BE FILED FOR LESS THAN FIVE  
15 THOUSAND DOLLARS (\$5000.00). LIABILITY UNDER SUCH BOND SHALL BE  
16 FOR THE DURATION OF SURFACE MINING AT EACH OPERATION, AND FOR A  
17 PERIOD OF FIVE YEARS THEREAFTER, UNLESS RELEASED IN WHOLE OR IN  
18 PART PRIOR THERETO AS HEREINAFTER PROVIDED. SUCH BOND SHALL BE  
19 EXECUTED BY THE OPERATOR AND A CORPORATE SURETY LICENSED TO DO  
20 BUSINESS IN THE COMMONWEALTH AND APPROVED BY THE SECRETARY:  
21 PROVIDED, HOWEVER, THAT THE OPERATOR MAY ELECT TO DEPOSIT CASH,  
22 AUTOMATICALLY RENEWABLE IRREVOCABLE LETTERS OF CREDIT WHICH ARE  
23 TERMINABLE ONLY UPON NINETY (90) DAYS WRITTEN NOTICE TO THE  
24 OPERATOR AND THE DEPARTMENT OR NEGOTIABLE BONDS OF THE UNITED  
25 STATES GOVERNMENT OR THE COMMONWEALTH OF PENNSYLVANIA, THE  
26 PENNSYLVANIA TURNPIKE COMMISSION, THE GENERAL STATE AUTHORITY,  
27 THE STATE PUBLIC SCHOOL BUILDING AUTHORITY, OR ANY MUNICIPALITY  
28 WITHIN THE COMMONWEALTH, WITH THE DEPARTMENT IN LIEU OF A  
29 CORPORATE SURETY. THE CASH DEPOSIT, AMOUNT OF SUCH IRREVOCABLE  
30 LETTERS OF CREDIT OR MARKET VALUE OF SUCH SECURITIES SHALL BE

1 EQUAL AT LEAST TO THE SUM OF THE BOND. THE SECRETARY SHALL, UPON  
2 RECEIPT OF ANY SUCH DEPOSIT OF CASH, LETTERS OF CREDIT OR  
3 SECURITIES, IMMEDIATELY PLACE THE SAME WITH THE STATE TREASURER,  
4 WHOSE DUTY IT SHALL BE TO RECEIVE AND HOLD THE SAME IN THE NAME  
5 OF THE COMMONWEALTH, IN TRUST, FOR THE PURPOSES FOR WHICH SUCH  
6 DEPOSIT IS MADE. THE STATE TREASURER SHALL AT ALL TIMES BE  
7 RESPONSIBLE FOR THE CUSTODY AND SAFEKEEPING OF SUCH DEPOSITS.  
8 THE OPERATOR MAKING THE DEPOSIT SHALL BE ENTITLED FROM TIME TO  
9 TIME TO DEMAND AND RECEIVE FROM THE STATE TREASURER, ON THE  
10 WRITTEN ORDER OF THE SECRETARY, THE WHOLE OR ANY PORTION OF ANY  
11 SECURITIES SO DEPOSITED, UPON DEPOSITING WITH HIM, IN LIEU  
12 THEREOF, OTHER NEGOTIABLE SECURITIES OF THE CLASSES HEREIN  
13 SPECIFIED HAVING A MARKET VALUE AT LEAST EQUAL TO THE SUM OF THE  
14 BOND, AND ALSO TO DEMAND, RECEIVE AND RECOVER THE INTEREST AND  
15 INCOME FROM SAID SECURITIES AS THE SAME BECOMES DUE AND PAYABLE:  
16 PROVIDED, HOWEVER, THAT WHERE SECURITIES, DEPOSITED AS  
17 AFORESAID, MATURE OR ARE CALLED, THE STATE TREASURER, AT THE  
18 REQUEST OF THE OPERATOR, SHALL CONVERT SUCH SECURITIES INTO SUCH  
19 OTHER NEGOTIABLE SECURITIES OF THE CLASSES HEREIN SPECIFIED AS  
20 MAY BE DESIGNATED BY THE OPERATOR: AND PROVIDED FURTHER, THAT  
21 WHERE NOTICE OF INTENT TO TERMINATE A LETTER OF CREDIT IS GIVEN,  
22 THE DEPARTMENT SHALL, AFTER THIRTY (30) DAYS WRITTEN NOTICE TO  
23 THE OPERATOR AND IN THE ABSENCE OF A REPLACEMENT OF SUCH LETTER  
24 OF CREDIT WITHIN SUCH THIRTY (30) DAY PERIOD BY THE OPERATOR  
25 WITH OTHER ACCEPTABLE BOND GUARANTEES PROVIDED HEREIN, DRAW UPON  
26 AND CONVERT SUCH LETTER OF CREDIT INTO CASH AND HOLD IT AS A  
27 COLLATERAL BOND GUARANTEE.

28 (C.1) NOTWITHSTANDING ANY PROVISION OF THIS ACT, THE  
29 REQUIRED BOND AMOUNT FOR SHALE PITS OWNED BY MUNICIPALITIES  
30 SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS (\$250.00) FOR EACH

1 PIT, NOR ONE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$1,250.00) IN  
2 THE AGGREGATE FOR ALL PITS OWNED BY A MUNICIPALITY.

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4 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.