WEST VIRGINIA CODE: §61-3-47

§61-3-47. Dams or obstructions in watercourses; penalty.

No person may fell any timber and permit the same to remain in any navigable or floatable stream of this state when to do so obstructs the passage of boats, rafts, staves, ties or timber of any kind.

Except as may be provided in chapter twenty or twenty-two of this code, no person may construct or maintain any dam or other structure in any stream or watercourse, which in any way prevents or obstructs the free and easy passage of fish up or down such stream or watercourse, without first providing as a part of such dam or other structure a suitable fish ladder, way or flume, so constructed as to allow fish easily to ascend or descend the same; which ladder, way or flume shall be constructed only upon plans, in a manner, and at a place, satisfactory to the Division of Natural Resources: Provided, That if the director of the Division of Natural Resources determines that there is no substantial fish life in such stream or watercourse, or that the installation of a fish ladder, way or flume would not facilitate the free and easy passage of fish up or down a stream or watercourse, or that an industrial development project requires the construction of such dam or other structure and the installation of an operational fish ladder, way or flume is impracticable, the director may, in writing, permit the construction or maintenance of a dam or other structure in a stream or watercourse without providing a suitable fish ladder, way or flume; and in all navigable and floatable streams provisions shall be made in such dam or structure for the passage of boats and other crafts, logs and other materials: Provided, however, That this section does not relieve such person from liability for damage to any riparian owner on account of the construction or maintenance of such dam.

Any person who violates any of the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding $1,000, or imprisoned in the county jail not exceeding one year, or both fined and imprisoned, and, whether a conviction is had under this section or not, such violation is a nuisance, which may be abated at the suit of any citizen or taxpayer, the county commission of the county, or, as to fish ladders, at the suit of the director of the Division of Natural Resources, and, if the same endangers county roads, the county commission may abate such nuisance peaceably without such suit.

WV Legislature