WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED
SENATE BILL NO. 143
(By Mr. Garner)

PASSED. Marshall, 1965

In Effect. Passage

FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 3-18-65
AN ACT to amend and reenact section forty-seven, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to dams or obstructions in watercourses and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section forty-seven, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 47. Dams or Obstructions in Watercourses; Penalty.—No person shall fell any timber and permit the same to remain in any navigable or floatable stream of
this state when to do so shall obstruct the passage of boats, rafts, staves, ties or timber of any kind. No person shall construct any dam or other obstruction more than fifteen feet in height across any stream or watercourse unless the design and proposed construction shall have been declared to be safe by an order entered by the public service commission after full investigation. *Provided,* that no dam or other obstruction more than ten feet in height shall be constructed across any stream or watercourse if such dam or other obstruction would create a body of water covering ten or more acres, unless the design and proposed construction of such dam or other obstruction shall have been declared to be safe by an order entered by the public service commission after full investigation. Except as may be provided by chapter twenty of this code, no person shall construct or maintain any dam or other structure in any stream or watercourse, which shall in any way prevent or obstruct 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 con-
structured 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 natural resources commission: Provided, however, That if the director of the department 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, he 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 further, That this section shall 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 shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding one thousand dollars, or imprisoned in the county jail not exceeding one year, or both fined and imprisoned, and, whether conviction be had under this section or not, such violation shall be deemed a nuisance, which may be abated at the suit of any citizen or taxpayer, the county court of the county, or, as to fish ladders, at the suit of the natural resources commission, and, if the same endangers county roads the county court may abate such nuisance peaceably without such suit.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect

Passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 18th day of March, 1965.

Governor