ENROLLED

SENATE BILL NO. 335

(By Mr. Brotherton)

PASSED _______april 14______ 1973

In Effect 90 Days from Passage

335

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/4/73
ENROLLED
Senate Bill No. 335
(By Mr. Brotherton, Mr. President)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two, three and eight, article nine of said chapter, all relating to installing or establishing systems or methods of drainage, water supply and waste disposal; prohibiting the throwing or releasing of dead animals and other offensive substances into or near certain waters or onto certain lands; and providing for penalties and jurisdiction of certain courts.

Be it enacted by the Legislature of West Virginia:

That section nine, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two, three and eight, article nine of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. STATE DEPARTMENT OF HEALTH.

§16-1-9. Supervision over local sanitation.

1. No person, firm, company, corporation, institution, whether public or private, county or municipal, shall install or establish any system or method of drainage, water supply, sewage or excreta disposal, or solid waste disposal without first obtaining a written permit to install or establish such system or method from the state director of health or his authorized representative. All such systems or methods shall be installed or established in accordance with plans, specifications and instructions issued by the state director of health or which
have been approved in writing by the state director of health
or his authorized representative.

Whenever the state director of health or his authorized
representative finds upon investigation that any system or
method of drainage, water supply, sewage or excreta dis-
posal, or solid waste disposal, whether publicly or privately
owned, has not been installed in accordance with plans,
specifications and instructions issued by the state director
of health or approved in writing by the state director of
health or his authorized representative, the state director
of health or his duly authorized representative may issue
an order requiring the owner of such system or method to
make alterations as may be necessary to correct the improper
condition. Such alterations shall be made within a reasonable
time which shall not exceed thirty days, unless a time
extension is authorized by the state director of health or
his duly authorized representative.

The presence of sewage, excreta or solid waste being
disposed of in a manner not approved by the state director
of health or his authorized representative shall constitute
prima facie evidence of the existence of a condition endanger-
ing public health.

The personnel of the state department of health shall be
available to consult and advise with any person, firm,
company, corporation, institution, whether public or pri-
vately owned, county or municipal, or public service author-
ity, as to the most appropriate design, method of operation
or alteration of any such system or method.

Any person, firm, company, corporation, institution,
whether public or private, county or municipal, who shall
violate any provisions of this section shall be deemed
guilty of a misdemeanor, and, upon conviction thereof, shall
be punished by a fine of not less than twenty-five dollars
nor more than five hundred dollars. The continued failure
or refusal of such convicted person, firm, company, corpora-
tion, institution, whether public or private, county or municip-
al, to make the alterations necessary to protect the public
health required by the state director of health or his duly
authorized representative shall constitute a separate, distinct
and additional offense for each twenty-four hour period of
such failure or refusal, and, upon conviction thereof, the
violator shall be fined not less than twenty-five dollars nor
more than five hundred dollars for each such conviction:
Provided, That none of the provisions contained in this
section shall apply to those commercial or industrial
wastes which are subject to the regulatory control of the
West Virginia department of natural resources or the West
Virginia air pollution control commission.

Justices of the peace shall have concurrent jurisdiction
with the circuit courts of this state for violations of any
provisions of this section.

ARTICLE 9. OFFENSES GENERALLY.

§16-9-2. Throwing or releasing dead animals or offensive
substances into waters used for domestic purposes;
penalties; jurisdiction; failure to bury or destroy
offensive substances after conviction; successive
offenses.

Any person who knowingly and willfully throws, causes to
be thrown or releases any dead animal, carcass, or part
thereof, garbage, sink or shower waste, organic substance,
human or animal excrement, contents of privy vault, septic
tank, cesspool or the effluent from any cesspool or nauseous
or offensive or poisonous substances into any well, cistern,
spring, brook, pond, stream or other body of water which
is used for domestic purposes, shall be guilty of a mis-
demeanor, and, upon conviction thereof, shall be fined not
less than twenty-five dollars nor more than two hundred
dollars. None of the provisions contained in this section
shall apply to those commercial or industrial wastes which
are subject to the regulatory control of the West Virginia
department of natural resources or the West Virginia air
pollution control commission.

Upon conviction of any such offense, the person con-
victed shall, within twenty-four hours after such conviction,
remove and bury or cause to be buried at least three feet
under the ground or destroy or cause to be destroyed as
otherwise directed by the state director of health or his
duly authorized representative any of such offensive materials
which the person so convicted has thrown, caused to be
thrown, released or knowingly permitted to remain in water
used for domestic purposes, contrary to the provisions
of this section, and his failure or refusal to do so shall
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constitute a misdemeanor and a second violation of the pro-
visions of this section. The continued failure or refusal
of such convicted person to so bury or destroy such offensive
materials shall constitute a separate, distinct and additional
offense for each successive twenty-four hour period of such
failure or refusal. Any person convicted of any offense describ-
ed in this paragraph shall be fined not less than twenty-five
dollars nor more than two hundred dollars, or imprisoned
in the county jail not more than ninety days, or both fined
and imprisoned.

§16-9-3. Depositing dead animals or offensive substances in or
near waters or on or near roads or on public or private
grounds; penalties; failure to bury or destroy offensive
substances after conviction; successive offenses.

Any person (1) who throws, causes to be thrown or releases
any dead animal, carcass, or part thereof, garbage, sink or
shower waste, organic substances, contents of a privy vault,
septic tank, cesspool or the effluent from any cesspool,
spoiled meat or nauseous or offensive or poisonous sub-
stances into any river, creek or other stream, or upon the
surface of any land adjacent to any river, creek or other
stream in such a location that high water or normal
drainage conditions will cause such offensive materials to be
washed, drained or cast into the river, creek or other stream;
or (2) who throws, or causes to be thrown or releases any of
such offensive materials upon the surface of any road,
right-of-way, street, alley, city or town lot, public ground,
market space, common or private land, or (3) who, being
the owner, lessee or occupant of any city or town lot,
public ground, market space, common or private land know-
ingly permits any such offensive materials to remain thereon
or neglects or refuses to remove or abate the public health
menace or nuisance occasioned thereby, within twenty-four
hours of the service of notice thereof in writing from the
state director of health or his duly authorized representative,
shall be guilty of a misdemeanor, and, upon conviction there-
of, shall be fined not less than one hundred dollars nor
more than one thousand dollars. None of the provisions con-
tained in this section shall apply to those commercial or
industrial wastes which are subject to the regulatory control
of the West Virginia department of natural resources
or the West Virginia air pollution control commission.
Upon a conviction for any such offense, the person shall, within twenty-four hours after such conviction, remove and bury or cause to be buried at least three feet under the ground, or destroy or cause to be destroyed as otherwise directed by the state director of health or his duly authorized representative, any of such offensive materials which the person so convicted has placed or knowingly permitted to remain upon such city or town lot, public ground, market space, common or private land, contrary to the provisions of this section. Such person’s failure or refusal to do so shall constitute a misdemeanor and a second offense against the provisions of this section. The continued failure or refusal of such convicted person to remove and bury or destroy such offensive materials shall constitute a separate, distinct and additional offense for each successive twenty-four hour period of such failure and refusal. Any person convicted of any offense described in this paragraph shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not more than ninety days, or both fined and imprisoned.

§16-9-8. Jurisdiction of justices and municipal judges.
Justices of the peace and municipal judges shall have concurrent jurisdiction with the circuit and criminal courts of this state for violations under sections one to seven, both inclusive, of this article.
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.

To take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 22nd day of April, 1973.

Governor
PRESENTED TO THE
GOVERNOR

Date 4/27/73
Time 2:05 p.m.