

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 335

(By Mr. Brotherton
Mr. President)

PASSED April 14, 1973

In Effect 90 Days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/4/73

335

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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
2 public or private, county or municipal, shall install or establish
3 any system or method of drainage, water supply, sewage or
4 excreta disposal, or solid waste disposal without first obtain-
5 ing a written permit to install or establish such system or
6 method from the state director of health or his authorized
7 representative. All such systems or methods shall be installed
8 or established in accordance with plans, specifications and
9 instructions issued by the state director of health or which

10 have been approved in writing by the state director of health
11 or his authorized representative.

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

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

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

38 Any person, firm, company, corporation, institution,
39 whether public or private, county or municipal, who shall
40 violate any provisions of this section shall be deemed
41 guilty of a misdemeanor, and, upon conviction thereof, shall
42 be punished by a fine of not less than twenty-five dollars
43 nor more than five hundred dollars. The continued failure
44 or refusal of such convicted person, firm, company, corpora-
45 tion, institution, whether public or private, county or municip-
46 al, to make the alterations necessary to protect the public
47 health required by the state director of health or his duly
48 authorized representative shall constitute a separate, distinct
49 and additional offense for each twenty-four hour period of
50 such failure or refusal, and, upon conviction thereof, the

51 violator shall be fined not less than twenty-five dollars nor
52 more than five hundred dollars for each such conviction:
53 *Provided*, That none of the provisions contained in this
54 section shall apply to those commercial or industrial
55 wastes which are subject to the regulatory control of the
56 West Virginia department of natural resources or the West
57 Virginia air pollution control commission.

58 Justices of the peace shall have concurrent jurisdiction
59 with the circuit courts of this state for violations of any
60 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.**

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

16 Upon conviction of any such offense, the person con-
17 victed shall, within twenty-four hours after such conviction,
18 remove and bury or cause to be buried at least three feet
19 under the ground or destroy or cause to be destroyed as
20 otherwise directed by the state director of health or his
21 duly authorized representative any of such offensive materials
22 which the person so convicted has thrown, caused to be
23 thrown, released or knowingly permitted to remain in water
24 used for domestic purposes, contrary to the provisions
25 of this section, and his failure or refusal to do so shall

26 constitute a misdemeanor and a second violation of the pro-
27 visions of this section. The continued failure or refusal
28 of such convicted person to so bury or destroy such offensive
29 materials shall constitute a separate, distinct and additional
30 offense for each successive twenty-four hour period of such
31 failure or refusal. Any person convicted of any offense describ-
32 ed in this paragraph shall be fined not less than twenty-five
33 dollars nor more than two hundred dollars, or imprisoned
34 in the county jail not more than ninety days, or both fined
35 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.**

1 Any person (1) who throws, causes to be thrown or releases
2 any dead animal, carcass, or part thereof, garbage, sink or
3 shower waste, organic substances, contents of a privy vault,
4 septic tank, cesspool or the effluent from any cesspool,
5 spoiled meat or nauseous or offensive or poisonous sub-
6 stances into any river, creek or other stream, or upon the
7 surface of any land adjacent to any river, creek or other
8 stream in such a location that high water or normal
9 drainage conditions will cause such offensive materials to be
10 washed, drained or cast into the river, creek or other stream;
11 or (2) who throws, or causes to be thrown or releases any of
12 such offensive materials upon the surface of any road,
13 right-of-way, street, alley, city or town lot, public ground,
14 market space, common or private land, or (3) who, being
15 the owner, lessee or occupant of any city or town lot,
16 public ground, market space, common or private land know-
17 ingly permits any such offensive materials to remain thereon
18 or neglects or refuses to remove or abate the public health
19 menace or nuisance occasioned thereby, within twenty-four
20 hours of the service of notice thereof in writing from the
21 state director of health or his duly authorized representative,
22 shall be guilty of a misdemeanor, and, upon conviction there-
23 of, shall be fined not less than one hundred dollars nor
24 more than one thousand dollars. None of the provisions con-
25 tained in this section shall apply to those commercial or
26 industrial wastes which are subject to the regulatory control
27 of the West Virginia department of natural resources
28 or the West Virginia air pollution control commission.

29 Upon a conviction for any such offense, the person shall,
30 within twenty-four hours after such conviction, remove and
31 bury or cause to be buried at least three feet under the
32 ground, or destroy or cause to be destroyed as otherwise
33 directed by the state director of health or his duly authorized
34 representative, any of such offensive materials which the
35 person so convicted has placed or knowingly permitted to
36 remain upon such city or town lot, public ground, market
37 space, common or private land, contrary to the provisions
38 of this section. Such person's failure or refusal to do so
39 shall constitute a misdemeanor and a second offense against
40 the provisions of this section. The continued failure or
41 refusal of such convicted person to remove and bury or
42 destroy such offensive materials shall constitute a separate,
43 distinct and additional offense for each successive twenty-
44 four hour period of such failure and refusal. Any person
45 convicted of any offense described in this paragraph shall
46 be fined not less than one hundred dollars nor more
47 than one thousand dollars, or imprisoned in the county
48 jail not more than ninety days, or both fined and im-
49 prisoned.

§16-9-8. Jurisdiction of justices and municipal judges.

1 Justices of the peace and municipal judges shall have concur-
2 rent jurisdiction with the circuit and criminal courts of this
3 state for violations under sections one to seven, both inclusive,
4 of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

N. Darrel Darby

Chairman Senate Committee

Clarence L. Lukstis Jr.

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard Weason

Clerk of the Senate

W. Blankenship

Clerk of the House of Delegates

W. T. Brotherton Jr.

President of the Senate

Lewis T. Thomas

Speaker House of Delegates

The within *approved* this the *27th*
April
day of _____, 1973.

Archie P. Mahe Jr.

Governor

PRESENTED TO THE
GOVERNOR

Date 4/27/73

Time 2:05 p.m.