WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Com. Sub. For

HOUSE BILL No. 2688

(By Delegate Mr. Speaker, Mr. Chambers

[By Request of the Executive]

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Passed MARCH 12, 1987

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2688
(By Mr. Speaker, Mr. Chambers and Delegate Swann)
[By request of the Executive]

[Passed March 12, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section nine-a, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public water systems generally; defining the term "public water system"; authorizing legislative rules to prescribe the maximum contaminant levels to which all public water systems shall conform in order to prevent adverse effects on the health of individuals, to establish treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer, and to establish provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level which would adversely affect the health of the consumer; authorizing legislative rules prescribing minimum requirements for: Sampling and testing, system operation, public notification by a public water system on being granted a variance or exemption or upon failure to comply with specific requirements of this section and regulations promulgated under this section, record keeping, laboratory certification, and procedures and conditions for granting variances and exemptions to public water
systems from state public water systems regulations; authorizing legislative rules establishing requirements covering the production and distribution of bottled drinking water and establishing requirements governing the taste, odor, appearance, and other consumer acceptability parameters of drinking water; empowering authorized representatives of the state board of health to enter any part of a public water system, whether or not the system is in violation of a legal requirement, for the purpose of inspection, sampling or testing; requiring that records or information reasonably required for a complete inspection be furnished; making a violation of this section a misdemeanor and prescribing the penalties therefor; authorizing the state board of health or the state director of health, or his authorized representative to seek injunctive relief in the circuit court of the county in which all or part of a public water system is situated for threatened or continuing violations; providing civil penalties for a willful violation of this section, or of any of the regulations or orders issued thereunder; and requiring that all regulations authorized under this section be promulgated by legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. STATE DEPARTMENT OF HEALTH.

§16-1-9a. Public water system defined; regulation of maximum contaminant levels in water systems; authorizing inspections; penalties.

1 A public water system is any water supply or system which regularly supplies or offers to supply, piped water to the public for human consumption, if serving at least an average of twenty-five individuals per day for at least sixty days per year, or which has at least fifteen service connections, and shall include: (1) Any collection, treatment, storage, and distribution facilities under the
control of the owner or operator of such system and used
primarily in connection with such system, and (2) any
collection or pretreatment storage facilities not under
such control which are used primarily in connection
with such system. A public water system shall not
include a system which meets all of the following
conditions: (1) Which consists only of distribution and
storage facilities (and does not have any collection and
treatment facilities); (2) which obtains all of its water
from, but is not owned or operated by, a public water
system which otherwise meets the definition; (3) which
does not sell water to any person; and (4) which is not
a carrier conveying passengers in interstate commerce.

The state board of health shall prescribe by legislative
rule the maximum contaminant levels to which all
public water systems shall conform in order to prevent
adverse effects on the health of individuals, and, if it
deems appropriate, treatment techniques that reduce
the contaminant or contaminants to a level which will
not adversely affect the health of the consumer. Such
rule shall contain provisions to protect and prevent
contamination of wellheads and well fields used by
public water supplies so that contaminants do not reach
a level which would adversely affect the health of the
consumer.

It shall further prescribe by legislative rule minimum
requirements for: Sampling and testing; system opera-
tion; public notification by a public water system on
being granted a variance or exemption or upon failure
to comply with specific requirements of this section and
regulations promulgated under this section; record
keeping; laboratory certification; as well as procedures
and conditions for granting variances and exemptions to
public water systems from state public water systems
regulations.

In addition, the state board of health shall establish
by legislative rule, as set out in chapter twenty-nine-a
of this code, requirements covering the production and
distribution of bottled drinking water and may by
legislative rule, as set out in chapter twenty-nine-a of
this code, establish requirements governing the taste,
odor, appearance, and other consumer acceptability parameters of drinking water.

Authorized representatives of the state board of health shall have right of entry to any part of a public water system, whether or not the system is in violation of a legal requirement, for the purpose of inspection, sampling or testing, and shall be furnished records or information reasonably required for a complete inspection.

Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or any entity recognized by law who shall violate any provision of this section, or any of the regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, and each day's violation shall constitute a separate offense. In addition thereto, the state board of health or the state director of health, or his authorized representative may seek injunctive relief in the circuit court of the county in which all or part of the public water system is situated for threatened or continuing violations. For a willful violation of this section, or of any of the regulations or orders issued thereunder, an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency, or entity recognized by law, upon a finding thereof by the circuit court of the county in which the violation occurs, shall be subject to a civil penalty of not more than five thousand dollars, and each day's violation shall be grounds for a separate penalty.

All regulations authorized under this section shall be promulgated by legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

_{Signature}_
Chairman Senate Committee

_{Signature}_
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

_{Signature}_
Clerk of the Senate

_{Signature}_
Clerk of the House of Delegates

_{Signature}_
President of the Senate

_{Signature}_
Speaker of the House of Delegates

The within                              this the 1st
day of                              April, 1987.

_{Signature}_
Governor