

No: 2688

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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# ENROLLED

Com. Sub. For

HOUSE BILL No. 2688

(By ~~Delegate~~ MR. Speaker, MR. Chambers  
+ Delegate Swann

[By Request of the Executive]

— ● —

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]

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

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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  
2 which regularly supplies or offers to supply, piped water  
3 to the public for human consumption, if serving at least  
4 an average of twenty-five individuals per day for at least  
5 sixty days per year, or which has at least fifteen service  
6 connections, and shall include: (1) Any collection,  
7 treatment, storage, and distribution facilities under the

8 control of the owner or operator of such system and used  
9 primarily in connection with such system, and (2) any  
10 collection or pretreatment storage facilities not under  
11 such control which are used primarily in connection  
12 with such system. A public water system shall not  
13 include a system which meets all of the following  
14 conditions: (1) Which consists only of distribution and  
15 storage facilities (and does not have any collection and  
16 treatment facilities); (2) which obtains all of its water  
17 from, but is not owned or operated by, a public water  
18 system which otherwise meets the definition; (3) which  
19 does not sell water to any person; and (4) which is not  
20 a carrier conveying passengers in interstate commerce.

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

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

43 In addition, the state board of health shall establish  
44 by legislative rule, as set out in chapter twenty-nine-a  
45 of this code, requirements covering the production and  
46 distribution of bottled drinking water and may by  
47 legislative rule, as set out in chapter twenty-nine-a of  
48 this code, establish requirements governing the taste,

49 odor, appearance, and other consumer acceptability  
50 parameters of drinking water.

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

58 Any individual, partnership, association, syndicate,  
59 company, firm, trust, corporation, government corpora-  
60 tion, institution, department, division, bureau, agency,  
61 federal agency, or any entity recognized by law who  
62 shall violate any provision of this section, or any of the  
63 regulations or orders issued pursuant thereto, shall be  
64 guilty of a misdemeanor, and, upon conviction thereof,  
65 shall be fined not less than twenty-five dollars nor more  
66 than two hundred dollars, and each day's violation shall  
67 constitute a separate offense. In addition thereto, the  
68 state board of health or the state director of health, or  
69 his authorized representative may seek injunctive relief  
70 in the circuit court of the county in which all or part  
71 of the public water system is situated for threatened or  
72 continuing violations. For a willful violation of this  
73 section, or of any of the regulations or orders issued  
74 thereunder, an individual, partnership, association,  
75 syndicate, company, firm, trust, corporation, govern-  
76 ment corporation, institution, department, division,  
77 bureau, agency, federal agency, or entity recognized by  
78 law, upon a finding thereof by the circuit court of the  
79 county in which the violation occurs, shall be subject to  
80 a civil penalty of not more than five thousand dollars,  
81 and each day's violation shall be grounds for a separate  
82 penalty.

83 All regulations authorized under this section shall be  
84 promulgated by legislative rules in accordance with the  
85 provisions of article three, chapter twenty-nine-a of this  
86 code.

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

*Gene O. Williams*  
Chairman Senate Committee

*Lyle Satter*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Withers*  
Clerk of the Senate

*Donald L. Kapp*  
Clerk of the House of Delegates

*Sam Tomblin*  
President of the Senate

*Robert P. Bell*  
Speaker of the House of Delegates

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

*Archa. Prange, Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/26/87

Time 2:39 p.m.

RECEIVED

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OFFICE OF THE  
SECRETARY OF THE ARMY