WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

Com. Sub. A to

HOUSE BILL No. 2028

(By Delegates Douglas Fardell and Manuel)

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Passed April 19, 1993

In Effect Ninety Day from Passage
AN ACT to amend and reenact section three-aa, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county hazardous materials response teams; allowing county commissions to bill carriers, owners and generators of hazardous materials for the cost of services provided to carriers, owners and generators of hazardous materials involved in a hazardous materials incident and providing that any carrier, owner or generator of hazardous materials failing to pay a bill for cost of services provided is liable for treble the cost of services.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3aa. Authority of county commissions to create and fund a hazardous material accident response program.

In addition to all other powers and duties now conferred by law upon county commissions, county commissions are hereby authorized and empowered to
create a hazardous material accident response program. The program may include the establishment of a hazardous materials response team. The hazardous materials response team shall include members of the fire departments, recognized and approved by the West Virginia fire commission in the county, who are designated by the county commission. The team shall also include members of emergency medical services certified pursuant to article four-c, chapter sixteen of this code who are acting in their official capacity by providing ambulance or emergency medical services within the county and who are designated as members of the hazardous materials response team by the county commission. The team may also include other people in the community who are recognized as having expertise with hazardous materials or hazardous material incidents and who are designated by the county commission to serve on the team. The purpose of the team is to respond to hazardous material incidents. The hazardous materials response team shall function and the members shall serve at the will and pleasure of the county commission. The team shall operate in cooperation with the county office of emergency services and other approved fire departments. The commission is authorized to receive donated funds and to expend those funds and to expend its own funds for the acquisition of equipment and materials for use by and training of the members of the team. The county commission is hereby authorized to enter into agreements with other counties to combine or coordinate hazardous material response team training and for the purchase or lease and use of equipment or materials.

Any carrier, owner or generator of hazardous materials who receives the services of a county hazardous materials response team is liable for the cost of necessary services provided by a county hazardous material response team. County commissions may bill a carrier, owner or generator of hazardous materials for any costs incurred by the team in responding to a hazardous materials incident in which the carrier, owner or generator is involved: Provided, That the carrier, owner or generator may, within thirty days of
receipt of the bill, appeal in writing to the county
commission to request a hearing to address any costs
which may be considered extraordinary for the services
of the hazardous materials response team. The carrier,
owner or generator will hold payment of the costs in
abeyance pending the final written decision of the
county commission. Any funds received by the county
commission as a result of billing carrier, owners and
generators of hazardous materials shall be used by the
county commission to implement the provisions of this
section and to reimburse the response teams partici-
pants for response costs.

Any carrier, owner or generator involved in a
hazardous materials incident who fails to pay a bill for
services provided by a county hazardous materials
incident team within ninety days shall be liable for
treble the cost of the services.

For purposes of this section, the term “generator”
means any person, corporation, partnership, association
or other legal entity, by site location, whose act or
process produces hazardous materials as identified or
listed by the director of the division of natural resources
in regulations promulgated pursuant to section six,
article five-g, chapter twenty of this code, in an amount
greater than twelve thousand kilograms per year.

For purposes of this section, the term “carrier” means
any person engaged in the off-site transportation of
hazardous materials by air, rail, highway or water.

For purposes of this section, “owner” means any
person, corporation, partnership, association or other
legal entity whose hazardous materials are being
transported by the entity or by a carrier.

For the purposes of this section, the term “hazardous
materials” means those materials which are designated
as such pursuant to federal laws and regulations, the
designations of which are adopted by reference as of the
effective date of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage:

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 17th day of May, 1993.

Governor