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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## Com. Sub. for House Bill No. 4578

(By Delegates Ashley, Martin, Seacrist and Staton)



Passed March 13, 1998

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

# H. B. 4578

(BY DELEGATES ASHLEY, MARTIN, SEACRIST AND STATON)

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[Passed March 13, 1998; in effect ninety days from passage.]

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AN ACT to amend article five, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen, relating to requiring the director of the division of environmental protection to propose legislative rules; establishing a market-based air emission banking and trading program; and providing for emissions credits.

*Be it enacted by the Legislature of West Virginia:*

That article five, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen, to read as follows:

**ARTICLE 5. AIR POLLUTION CONTROL.**

**§22-5-18. Market-based banking and trading programs, emissions credits; director to promulgate rules.**

- 1 (a) Within one hundred eighty days after the effective
- 2 date of this section, the director shall propose legislative
- 3 rules for promulgation in accordance with article three,

4 chapter twenty-nine-a of this code, to the full extent  
5 allowed by federal and state law, one or more rules  
6 establishing a voluntary emissions trading and banking  
7 program that provides incentives to make progress toward  
8 the attainment or maintenance of the national ambient air  
9 quality standards, the reduction or prevention of  
10 hazardous air contaminants or the protection of human  
11 health and welfare and the environment from air  
12 pollution.

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13 (b) Any person reducing air emission from a source to  
14 a greater extent than otherwise required by state or federal  
15 law is entitled to an emissions credit in the amount of the  
16 excess emission reduction. The director shall establish a  
17 system by <sup>LEGISLATIVE</sup> rule for quantifying, verifying and registering  
18 all emissions reduction credits, which are eligible for  
19 banking and trading if achieved after the first day of  
20 January, one thousand nine hundred ninety-one, to the  
21 extent permitted by federal law. Credits also shall be  
22 available for permanent shutdowns: *Provided*, That the  
23 credits may be transferred by the depositor to the state  
24 office of economic development or to a public interest  
25 group of the depositor's designation. Except for  
26 voluntary reductions of nitrogen oxides, ten percent of  
27 any emission credits registered with the director shall be  
28 credited to an account for the benefit of the state and  
29 retired from future use, if not used within ten years. All  
30 other emissions reduction credits registered shall remain in  
31 effect until used and debited or retired, if not used within  
32 ten years. The director may charge a reasonable  
33 transaction fee at the time any credits are registered and  
34 shall deposit the fees in the air pollution control fund.

35 (c) Emission credits registered by a person in  
36 accordance with subsection (b) of this section may be used  
37 by the person to satisfy emission reduction requirements  
38 that would otherwise be required under state or federal law  
39 or the credits may be used for the same purpose at another  
40 source, by the person who registered the credit or by  
41 another person to whom the credit was transferred. Same  
42 source use of banked emission credits requires prior  
43 notification to the West Virginia office of air quality. The  
44 rules may not prohibit the transfer of credits among

45 persons, but shall establish procedures by which transfers  
46 are identified, tracked and accounted for in the program.  
47 The division may establish the emissions trading program  
48 as a state, multistate or regional program as long as the  
49 program contributes to the goal of improving the air  
50 quality in West Virginia and in the air quality region  
51 where the source is located.

52 (d) The director may propose legislative rules for  
53 promulgation in accordance with article three, chapter  
54 twenty-nine-a of this code, establishing classes of volatile  
55 organic compounds, and shall allow banking and trading  
56 of different volatile organic compounds within the same  
57 class. In lieu thereof, trading shall be allowed among all  
58 volatile organic compounds where not inconsistent with  
59 federal law and where similar degrees of hazard and  
60 qualitative impact are anticipated with respect to air  
61 quality. For any emissions banking and trading program  
62 used for the purpose of making progress toward attaining  
63 or maintaining the national ambient air quality standard  
64 for ozone, the director may allow reductions of volatile  
65 organic compounds to be substituted for required  
66 reductions of oxides of nitrogen, or reductions of oxides  
67 of nitrogen to be substituted for required reductions of  
68 volatile organic compounds, where appropriate, if not  
69 inconsistent with federal law.

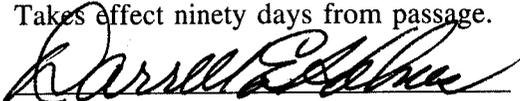
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

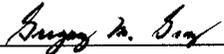
  
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Chairman Senate Committee

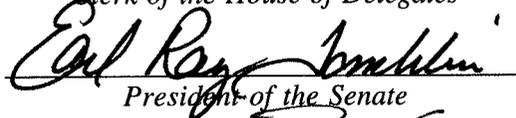
  
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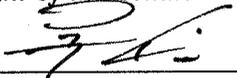
Originating in the House.

Takes effect ninety days from passage.

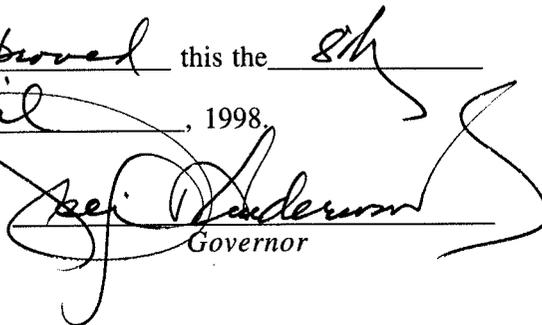
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within approved this the 8th  
day of April, 1998.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:49 pm