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HB 2685

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999

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# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 2685

(By Delegates Michael, Compton, Amores,  
Johnson, Jenkins, Capito and L. White)

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Passed March 12, 1999

In Effect Ninety Days from Passage

# **ENROLLED**

COMMITTEE SUBSTITUTE

FOR

# **H. B. 2685**

(BY DELEGATES MICHAEL, COMPTON, AMORES,  
JOHNSON, JENKINS, CAPITO AND L. WHITE)

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[Passed March 12, 1999; in effect ninety days from passage.]

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AN ACT to amend and reenact section twenty-four, article eleven, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to creating a felony offense for certain violations of the water pollution control act.

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

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

## **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

### **§22-11-24. VIOLATIONS; CRIMINAL PENALTIES.**

- 1       (a) Any person who causes pollution or who fails or refuses
- 2       to discharge any duty imposed upon him or her by this article
- 3       or by any rule of the board or director, promulgated pursuant to
- 4       the provisions and intent of this article or article three, chapter
- 5       twenty-two-b of this code, or by an order of the director or

6 board, or who fails or refuses to apply for and obtain a permit  
7 as required by the provisions of this article, or who fails or  
8 refuses to comply with any term or condition of such permit, is  
9 guilty of a misdemeanor and, upon conviction thereof, shall be  
10 punished by a fine of not less than one hundred dollars nor  
11 more than one thousand dollars, or by imprisonment in the  
12 county jail for a period not exceeding six months, or by both  
13 fine and imprisonment.

14 (b) Any person who intentionally misrepresents any  
15 material fact in an application, record, report, plan or other  
16 document filed or required to be maintained under the provi-  
17 sions of this article or any rules promulgated by the director  
18 thereunder is guilty of a misdemeanor and, upon conviction  
19 thereof, shall be punished by a fine of not less than one thou-  
20 sand dollars nor more than ten thousand dollars or by imprison-  
21 ment in the county jail not exceeding six months or by both fine  
22 and imprisonment.

23 (c) Any person who willfully or negligently violates any  
24 provision of any permit issued under or subject to the provi-  
25 sions of this article or who willfully or negligently violates any  
26 provision of this article or any rule of the board or director or  
27 any effluent limitation or any order of the director or board is  
28 guilty of a misdemeanor and, upon conviction thereof, shall be  
29 punished by a fine of not less than two thousand five hundred  
30 dollars nor more than twenty-five thousand dollars per day of  
31 violation or by imprisonment in the county jail not exceeding  
32 one year or by both fine and imprisonment.

33 (d) Any person convicted of a second or subsequent willful  
34 violation of subsections (b) or (c) of this section or knowingly  
35 and willfully violates any provision of any permit, rule or order  
36 issued under or subject to the provisions of this article, or  
37 knowingly and willfully violates any provision of this article,  
38 is guilty of a felony, and upon conviction shall be imprisoned  
39 in a correctional facility not less than one nor more than three  
40 years, or fined not more than fifty thousand dollars for each day  
41 of violation, or both fined and imprisoned.

42 (e) Any person may be prosecuted and convicted under the  
43 provisions of this section notwithstanding that none of the

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44 administrative remedies provided for in this article have been  
45 pursued or invoked against said person and notwithstanding that  
46 civil action for the imposition and collection of a civil penalty  
47 or an application for an injunction under the provisions of this  
48 article has not been filed against such person.

49 (f) Where a person holding a permit is carrying out a  
50 program of pollution abatement or remedial action in compli-  
51 ance with the conditions and terms of the permit, the person is  
52 not subject to criminal prosecution for pollution recognized and  
53 authorized by the permit.

A handwritten signature in black ink, appearing to read "John D. Nichols".

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

Mark Herring

Chairman Senate Committee

Jeff Smith

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Barry E. Tolson

Clerk of the Senate

Suzanne Bay

Clerk of the House of Delegates

Earl Ray Tomblin

President of the Senate

John R. Lewis

Speaker of the House of Delegates

The within approved this the 8th  
day of April, 1999.

Joe D. Alderson  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 3:42 pm