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
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.

(a) Any person who causes pollution or who fails or refuses to discharge any duty imposed upon him or her by this article or by any rule of the board or director, promulgated pursuant to the provisions and intent of this article or article three, chapter twenty-two-b of this code, or by an order of the director or
board, or who fails or refuses to apply for and obtain a permit
as required by the provisions of this article, or who fails or
refuses to comply with any term or condition of such permit, is
guilty of a misdemeanor and, upon conviction thereof, shall be
punished by a fine of not less than one hundred dollars nor
more than one thousand dollars, or by imprisonment in the
county jail for a period not exceeding six months, or by both
fine and imprisonment.

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

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

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

(e) Any person may be prosecuted and convicted under the
provisions of this section notwithstanding that none of the
administrative remedies provided for in this article have been
pursued or invoked against said person and notwithstanding that
civil action for the imposition and collection of a civil penalty
or an application for an injunction under the provisions of this
article has not been filed against such person.

(f) Where a person holding a permit is carrying out a
program of pollution abatement or remedial action in compli-
ance with the conditions and terms of the permit, the person is
not subject to criminal prosecution for pollution recognized and
authorized by the permit.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ________ approved this the ________ day of ________, 1999.

[Signatures]

Governor
PRESENTED TO THE
GOVERNOR
Date 3/30/69
Time 3:40 PM