WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED

SENATE BILL NO. 734

(By Senator Wooten, et al.)

PASSED April 13, 2001

In Effect 90 days from Passage
ENROLLED

Senate Bill No. 734

(By Senators Wooton, Snyder, Caldwell, Fanning, Hunter, Kessler, Minard, Mitchell, Redd, Ross and Deem)

[Passed April 13, 2001; in effect ninety days from passage.]

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 and community water systems; and administrative penalties.

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 PUBLIC HEALTH SYSTEM.

§16-1-9a. Public water system and community water system defined; regulation of maximum contaminant levels in water systems; authorization of inspections; violations; criminal, civil and administrative penalties; safe drinking water penalty fund.
(a) A public water system is any water supply or system that regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of twenty-five individuals per day for at least sixty days per year, or which has at least fifteen service connections, and shall include: (1) Any collection, treatment, storage and distribution facilities under the control of the owner or operator of such system and used primarily in connection with such system; and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system does not include a system that meets all of the following conditions: (1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); (2) obtains all of its water from, but is not owned or operated by, a public water system that otherwise meets the definition; (3) does not sell water to any person; and (4) is not a carrier conveying passengers in interstate commerce.

(b)(1) The secretary shall prescribe by legislative rule the maximum contaminant levels to which all public water systems shall conform in order to prevent adverse effects on the health of individuals and, if the secretary considers appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer.

(2) The secretary shall further prescribe by legislative rule 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;
recordkeeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems regulations.

(3) In addition, the secretary shall establish by legislative rule, in accordance with article three, chapter twenty-nine-a of this code, requirements covering the production and distribution of bottled drinking water and may by legislative rule, in accordance with article three, chapter twenty-nine-a of this code, establish requirements governing the taste, odor, appearance and other consumer acceptability parameters of drinking water.

(c) Authorized representatives of the bureau have right of entry to any part of a public water system, whether or not the system is in violation of a legal requirement, for the purpose of inspecting, sampling or testing and shall be furnished records or information reasonably required for a complete inspection.

(d)(1) Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any entity recognized by law who violates any provision of this section, or any of the rules or orders issued pursuant to this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars and each day’s violation shall constitute a separate offense. The commissioner or his or her authorized representative may also seek injunctive relief in the circuit court of the county in which all or part of the public water system is situated for threatened or continuing violations.

(2) For a willful violation of a provision of this section, or of any of the rules or orders issued under this section for which a penalty is not otherwise provided under subdivision (3) of this subsection, an individual, partnership, association, syndicate, company, firm, trust, corporation,
government corporation, institution, department, division, bureau, agency, federal agency or entity recognized by law, upon a finding of a willful violation by the circuit court of the county in which the violation occurs, shall be subject to a civil penalty of not more than five thousand dollars and each day's violation shall be grounds for a separate penalty.

(3) The commissioner or his or her authorized representative shall have authority to assess administrative penalties and initiate any proceedings necessary for the enforcement of drinking water rules. The administrative penalty for a violation of any drinking water rule is a minimum of one thousand dollars per day per violation and a maximum of two thousand five hundred dollars per day per violation for systems serving more than ten thousand persons, a minimum of two hundred fifty dollars per day per violation and a maximum of five hundred dollars per day per violation for systems serving over three thousand three hundred persons up to and including ten thousand persons, a minimum of one hundred dollars per day per violation and a maximum of two hundred dollars per day per violation for systems serving three thousand three hundred or fewer persons and each day's violation shall be grounds for a separate penalty. Penalties are payable to the commissioner. All moneys collected under this section shall be deposited into a restricted account known as the safe drinking water penalty fund previously created in the office of the state treasurer. All money deposited into the fund shall be used by the commissioner to provide technical assistance to public water systems.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within ...is approved... this the... 2nd
Day of... May... 2001.

[Signature]
Governor