

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

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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.

1 (a) A public water system is any water supply or system
2 that regularly supplies or offers to supply water for human
3 consumption through pipes or other constructed convey-
4 ances, if serving at least an average of twenty-five individ-
5 uals per day for at least sixty days per year, or which has
6 at least fifteen service connections, and shall include: (1)
7 Any collection, treatment, storage and distribution
8 facilities under the control of the owner or operator of
9 such system and used primarily in connection with such
10 system; and (2) any collection or pretreatment storage
11 facilities not under such control which are used primarily
12 in connection with such system. A public water system
13 does not include a system that meets all of the following
14 conditions: (1) Consists only of distribution and storage
15 facilities (and does not have any collection and treatment
16 facilities); (2) obtains all of its water from, but is not
17 owned or operated by, a public water system that other-
18 wise meets the definition; (3) does not sell water to any
19 person; and (4) is not a carrier conveying passengers in
20 interstate commerce.

21 (b)(1) The secretary shall prescribe by legislative rule the
22 maximum contaminant levels to which all public water
23 systems shall conform in order to prevent adverse effects
24 on the health of individuals and, if the secretary considers
25 appropriate, treatment techniques that reduce the contam-
26 inant or contaminants to a level which will not adversely
27 affect the health of the consumer. The rule shall contain
28 provisions to protect and prevent contamination of
29 wellheads and well fields used by public water supplies so
30 that contaminants do not reach a level that would ad-
31 versely affect the health of the consumer.

32 (2) The secretary shall further prescribe by legislative
33 rule minimum requirements for: Sampling and testing;
34 system operation; public notification by a public water
35 system on being granted a variance or exemption or upon
36 failure to comply with specific requirements of this section
37 and regulations promulgated under this section;

38 recordkeeping; laboratory certification; as well as proce-
39 dures and conditions for granting variances and exemp-
40 tions to public water systems from state public water
41 systems regulations.

42 (3) In addition, the secretary shall establish by legisla-
43 tive rule, in accordance with article three, chapter twenty-
44 nine-a of this code, requirements covering the production
45 and distribution of bottled drinking water and may by
46 legislative rule, in accordance with article three, chapter
47 twenty-nine-a of this code, establish requirements govern-
48 ing the taste, odor, appearance and other consumer
49 acceptability parameters of drinking water.

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

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

69 (2) For a willful violation of a provision of this section,
70 or of any of the rules or orders issued under this section for
71 which a penalty is not otherwise provided under subdivi-
72 sion (3) of this subsection, an individual, partnership,
73 association, syndicate, company, firm, trust, corporation,

74 government corporation, institution, department, division,
75 bureau, agency, federal agency or entity recognized by
76 law, upon a finding of a willful violation by the circuit
77 court of the county in which the violation occurs, shall be
78 subject to a civil penalty of not more than five thousand
79 dollars and each day's violation shall be grounds for a
80 separate penalty.

81 (3) The commissioner or his or her authorized represen-
82 tative shall have authority to assess administrative
83 penalties and initiate any proceedings necessary for the
84 enforcement of drinking water rules. The administrative
85 penalty for a violation of any drinking water rule is a
86 minimum of one thousand dollars per day per violation
87 and a maximum of two thousand five hundred dollars per
88 day per violation for systems serving more than ten
89 thousand persons, a minimum of two hundred fifty dollars
90 per day per violation and a maximum of five hundred
91 dollars per day per violation for systems serving over three
92 thousand three hundred persons up to and including ten
93 thousand persons, a minimum of one hundred dollars per
94 day per violation and a maximum of two hundred dollars
95 per day per violation for systems serving three thousand
96 three hundred or fewer persons and each day's violation
97 shall be grounds for a separate penalty. Penalties are
98 payable to the commissioner. All moneys collected under
99 this section shall be deposited into a restricted account
100 known as the safe drinking water penalty fund previously
101 created in the office of the state treasurer. All money
102 deposited into the fund shall be used by the commissioner
103 to provide technical assistance to public water systems.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within is approved this the 2nd
Day of May, 2001.
[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/01

Time 2:30pm