WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4449

(By Delegates Fleischauer, Mahan, Compton, Manuel, Amores, Perdue and Webster)

Passed March 7, 2002

In Effect Ninety Days from Passage
AN ACT to amend article eleven, 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 twenty-nine, relating to authorizing the department of environmental protection to collect costs incurred for emergency response to accidental discharge or spill of pollution that may enter into state waters or to prevent spills; authorizing the department to collect cleanup costs for authorized third parties; and providing for civil actions.

Be it enacted by the Legislature of West Virginia:

That article eleven, 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 twenty-nine, to read as follows:
ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-29. Reimbursement of response costs.

(a) The secretary may recover through civil action or cooperative agreements with responsible persons, the actual, reasonable and necessary amounts expended by the department for the purpose of responding to, evaluating or overseeing a response to a spill or accidental discharge of any pollutant that enters the waters of the state, or taking measures required to prevent a spill or accidental discharge of any pollutant from entering the waters of the state. The department shall provide the responsible party an itemized invoice of the expenditures that the department seeks to recover.

(b) All moneys recovered by the secretary shall be deposited into the water quality management fund created in section ten of this article and shall be used for future responses to, evaluation or oversight of a response to a spill or accidental discharge of any pollutant that enters the waters of the state, or measures required to be taken to prevent a spill or accidental discharge of any pollutant from entering the waters of the state.

(c) The amounts that may be collected by the secretary pursuant to subsection (a) of this section may include any reasonable and necessary costs incurred by a third party who is not a responsible party and who, with the prior authorization of the secretary or the chief inspector, responds to a spill or accidental discharge that enters or threatens to enter the waters of the state. The department is not responsible for or may not be held liable for costs incurred by the third party responder;

(d) Any civil action instituted pursuant to this section may be brought in the county in which the spill or accidental discharge occurred or the county in which the response occurred.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the ___ day of _______ 2002.

Governor
PRESENTED TO THE
GOVERNOR

Date: 3/19/02
Time: 3:16 PM