WEST VIRGINIA LEGISLATURE
Regular Session, 2002

ENROLLED

SENATE BILL NO. 568

(By Senator [Senator's Name])

PASSED March 9, 2002

In Effect 90 days from Passage
ENROLLED

Senate Bill No. 568

(By Senators Ross, Rowe, Sharpe and Hunter)

[Passed March 9, 2002; 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 authorizing bureau for public health to require public water system evaluations; and providing for a public water system to report corrective actions within a specified time period.

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;
38 recordkeeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems regulations.

39 (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.

40 (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. The right of entry includes the right for a bureau representative or a designee of a bureau representative to conduct an evaluation necessary to assure the public water system meets federal safe drinking water requirements. The public water system shall provide a written response to the bureau within forty-five days of receipt of the evaluation by the public water system, addressing corrective actions to be taken as a result of the evaluation.

41 (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 subdivi-
sion (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 represen-
tative 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 the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 27th Day of March, 2002.

Governor
PRESENTED TO THE

GOVERNOR

Date: 3/25/02

Time: 11:00 a.m.