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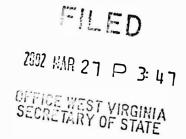
OFFICE WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

SENATE BILL NO568
(By Senator <u>loss, et al</u>)
PASSED March a, 2002
In Effect 90 days Soon_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 1 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) 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 owned or operated by, a public water system that other-17 wise meets the definition; (3) does not sell water to any 18 person; and (4) is not a carrier conveying passengers in 19 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;

- recordkeeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems regulations.
- 42 (3) In addition, the secretary shall establish by legislative 43 rule, in accordance with article three, chapter twentynine-a of this code, requirements covering the production 44 and distribution of bottled drinking water and may by 45 legislative rule, in accordance with article three, chapter 46 47 twenty-nine-a of this code, establish requirements governing the taste, odor, appearance and other consumer 48 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. The right of entry includes the 56 right for a bureau representative or a designee of a bureau 57 representative to conduct an evaluation necessary to 58 assure the public water system meets federal safe drinking 59 water requirements. The public water system shall provide a written response to the bureau within forty-five 60 days of receipt of the evaluation by the public water 61 system, addressing corrective actions to be taken as a 62 result of the evaluation. 63
 - (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

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75 court of the county in which all or part of the public water76 system is situated for threatened or continuing violations.

(2) For a willful violation of a provision of this section, 77 or of any of the rules or orders issued under this section for 78 which a penalty is not otherwise provided under subdivi-79 sion (3) of this subsection, an individual, partnership, 80 association, syndicate, company, firm, trust, corporation, 81 82 government corporation, institution, department, division, bureau, agency, federal agency or entity recognized by 83 law, upon a finding of a willful violation by the circuit 84 85 court of the county in which the violation occurs, shall be subject to a civil penalty of not more than five thousand 86 dollars and each day's violation shall be grounds for a 87 88 separate penalty.

(3) The commissioner or his or her authorized represen-89 90 tative shall have authority to assess administrative 91 penalties and initiate any proceedings necessary for the 92 enforcement of drinking water rules. The administrative 93 penalty for a violation of any drinking water rule is a 94 minimum of one thousand dollars per day per violation and a maximum of two thousand five hundred dollars per 95 day per violation for systems serving more than ten 96 97 thousand persons, a minimum of two hundred fifty dollars 98 per day per violation and a maximum of five hundred 99 dollars per day per violation for systems serving over three 100 thousand three hundred persons up to and including ten thousand persons, a minimum of one hundred dollars per 101 day per violation and a maximum of two hundred dollars 102 103 per day per violation for systems serving three thousand 104 three hundred or fewer persons and each day's violation shall be grounds for a separate penalty. Penalties are 105 payable to the commissioner. All moneys collected under 106 this section shall be deposited into a restricted account 107 known as the safe drinking water penalty fund previously 108 109 created in the office of the state treasurer. All money deposited into the fund shall be used by the commissioner 110 to provide technical assistance to public water systems.

/ \ [Enr. S. B. No. 568
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.
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Chairman Senate Committee
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Chairman House Committee
Originated in the Senate.
In effect ninety days from passage.
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Lassel Chalse
Clerk of the Senate
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