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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2002*

**ENROLLED**

**SENATE BILL NO.** 568

(By Senator Ross, et al)

**PASSED** March 9, 2002

**In Effect** 90 days from **Passage**

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SECRETARY OF STATE

## ENROLLED

### Senate Bill No. 568

(BY SENATORS ROSS, ROWE, SHARPE AND HUNTER)

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[Passed March 9, 2002; in effect ninety days from passage.]

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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.**

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 legislative  
43 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. 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  
60 provide a written response to the bureau within forty-five  
61 days of receipt of the evaluation by the public water  
62 system, addressing corrective actions to be taken as a  
63 result of the evaluation.

64 (d) (1) Any individual, partnership, association, syndi-  
65 cate, company, firm, trust, corporation, government  
66 corporation, institution, department, division, bureau,  
67 agency, federal agency or any entity recognized by law  
68 who violates any provision of this section, or any of the  
69 rules or orders issued pursuant to this section, is guilty of  
70 a misdemeanor and, upon conviction thereof, shall be fined  
71 not less than fifty dollars nor more than five hundred  
72 dollars and each day's violation shall constitute a separate  
73 offense. The commissioner or his or her authorized  
74 representative may also seek injunctive relief in the circuit

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

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

89 (3) The commissioner or his or her authorized represen-  
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  
95 and a maximum of two thousand five hundred dollars per  
96 day per violation for systems serving more than ten  
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  
101 thousand persons, a minimum of one hundred dollars per  
102 day per violation and a maximum of two hundred dollars  
103 per day per violation for systems serving three thousand  
104 three hundred or fewer persons and each day's violation  
105 shall be grounds for a separate penalty. Penalties are  
106 payable to the commissioner. All moneys collected under  
107 this section shall be deposited into a restricted account  
108 known as the safe drinking water penalty fund previously  
109 created in the office of the state treasurer. All money  
110 deposited into the fund shall be used by the commissioner  
111 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 27<sup>th</sup>  
Day of March....., 2002.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/02

Time 11:20 am