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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# 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

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FOR

## H. B. 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.**

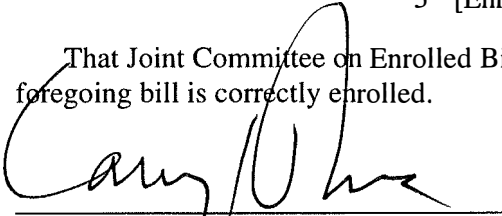
1 (a) The secretary may recover through civil action or  
2 cooperative agreements with responsible persons, the actual,  
3 reasonable and necessary amounts expended by the department  
4 for the purpose of responding to, evaluating or overseeing a  
5 response to a spill or accidental discharge of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

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

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

26 (d) Any civil action instituted pursuant to this section may  
27 be brought in the county in which the spill or accidental  
28 discharge occurred or the county in which the response occurred.

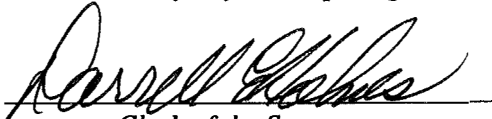
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
\_\_\_\_\_  
Chairwoman Senate Committee

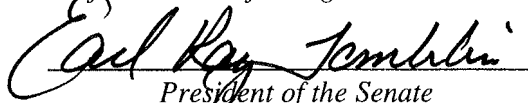
  
\_\_\_\_\_  
Chairman House Committee

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 18<sup>th</sup>  
day of March, 2002.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/12/02

Time 3:15 pm