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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

Com. Sub. For
HOUSE BILL No. *2028*

(By Delegates *Douglas Faircloth and*
Manuel)



Passed *April 10,* 1993

In Effect *Ninety Day Term* Passage

COMMITTEE SUBSTITUTE

FOR

H. B. 2028

(By DELEGATES DOUGLAS, FAIRCLOTH AND MANUEL)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section three-aa, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county hazardous materials response teams; allowing county commissions to bill carriers, owners and generators of hazardous materials for the cost of services provided to carriers, owners and generators of hazardous materials involved in a hazardous materials incident and providing that any carrier, owner or generator of hazardous materials failing to pay a bill for cost of services provided is liable for treble the cost of services.

Be it enacted by the Legislature of West Virginia:

That section three-aa, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3aa. Authority of county commissions to create and fund a hazardous material accident response program.

1 In addition to all other powers and duties now
2 conferred by law upon county commissions, county
3 commissions are hereby authorized and empowered to

4 create a hazardous material accident response program.
5 The program may include the establishment of a
6 hazardous materials response team. The hazardous
7 materials response team shall include members of the
8 fire departments, recognized and approved by the West
9 Virginia fire commission in the county, who are
10 designated by the county commission. The team shall
11 also include members of emergency medical services
12 certified pursuant to article four-c, chapter sixteen of
13 this code who are acting in their official capacity by
14 providing ambulance or emergency medical services
15 within the county and who are designated as members
16 of the hazardous materials response team by the county
17 commission. The team may also include other people in
18 the community who are recognized as having expertise
19 with hazardous materials or hazardous material inci-
20 dents and who are designated by the county commission
21 to serve on the team. The purpose of the team is to
22 respond to hazardous material incidents. The hazardous
23 materials response team shall function and the members
24 shall serve at the will and pleasure of the county
25 commission. The team shall operate in cooperation with
26 the county office of emergency services and other
27 approved fire departments. The commission is autho-
28 rized to receive donated funds and to expend those funds
29 and to expend its own funds for the acquisition of
30 equipment and materials for use by and training of the
31 members of the team. The county commission is hereby
32 authorized to enter into agreements with other counties
33 to combine or coordinate hazardous material response
34 team training and for the purchase or lease and use of
35 equipment or materials.

36 Any carrier, owner or generator of hazardous mate-
37 rials who receives the services of a county hazardous
38 materials response team is liable for the cost of
39 necessary services provided by a county hazardous
40 material response team. County commissions may bill a
41 carrier, owner or generator of hazardous materials for
42 any costs incurred by the team in responding to a
43 hazardous materials incident in which the carrier,
44 owner or generator is involved: *Provided*, That the
45 carrier, owner or generator may, within thirty days of

46 receipt of the bill, appeal in writing to the county
47 commission to request a hearing to address any costs
48 which may be considered extraordinary for the services
49 of the hazardous materials response team. The carrier,
50 owner or generator will hold payment of the costs in
51 abeyance pending the final written decision of the
52 county commission. Any funds received by the county
53 commission as a result of billing carrier, owners and
54 generators of hazardous materials shall be used by the
55 county commission to implement the provisions of this
56 section and to reimburse the response teams partici-
57 pants for response costs.

58 Any carrier, owner or generator involved in a
59 hazardous materials incident who fails to pay a bill for
60 services provided by a county hazardous materials
61 incident team within ninety days shall be liable for
62 treble the cost of the services.

63 For purposes of this section, the term "generator"
64 means any person, corporation, partnership, association
65 or other legal entity, by site location, whose act or
66 process produces hazardous materials as identified or
67 listed by the director of the division of natural resources
68 in regulations promulgated pursuant to section six,
69 article five-g, chapter twenty of this code, in an amount
70 greater than twelve thousand kilograms per year.

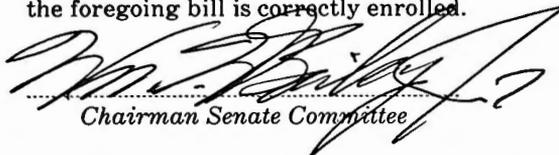
71 For purposes of this section, the term "carrier" means
72 any person engaged in the off-site transportation of
73 hazardous materials by air, rail, highway or water.

74 For purposes of this section, "owner" means any
75 person, corporation, partnership, association or other
76 legal entity whose hazardous materials are being
77 transported by the entity or by a carrier.

78 For the purposes of this section, the term "hazardous
79 materials" means those materials which are designated
80 as such pursuant to federal laws and regulations, the
81 designations of which are adopted by reference as of the
82 effective date of this section.

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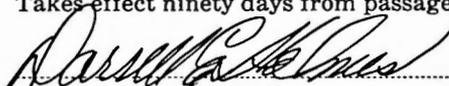
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

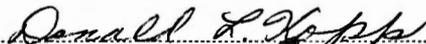

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Chairman Senate Committee


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Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.)

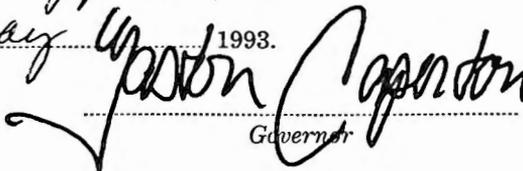

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within is approved this the 17th
day of May 1993.


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Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/93

Time 3:29 pm