

FILED ✓

2001 MAY -2 P 11:32

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2001*

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**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO. 574**

**(By Senator Snyder, et al )**

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**PASSED April 14, 2001**

**In Effect 90 days from Passage**

FILED

2001 MAY -2 P 11: 31

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 574**

(SENATORS SNYDER, ROWE AND MITCHELL, *original sponsors*)

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[Passed April 14, 2001; in effect ninety days from passage.]

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AN ACT to amend and reenact section twenty-two, article eleven, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing certain civil penalties of the water pollution control act; and authorizing rules for the development of administrative resolution as an alternative to civil action.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 11. WATER POLLUTION CONTROL ACT.**

**§22-11-22. Civil penalties and injunctive relief; administrative penalties.**

FILED

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OFFICE OF THE CLERK  
STATE OF VIRGINIA

1 (a) Any person who violates any provision of any permit  
2 issued under or subject to the provisions of this article is  
3 subject to a civil penalty not to exceed twenty-five thou-  
4 sand dollars per day of such violation and any person who  
5 violates any provision of this article or of any rule or who  
6 violates any standard or order promulgated or made and  
7 entered under the provisions of this article or article one  
8 or three, chapter twenty-two-b of this code is subject to a  
9 civil penalty not to exceed twenty-five thousand dollars  
10 per day of such violation. Any such civil penalty may be  
11 imposed and collected only by a civil action instituted by  
12 the director in the circuit court of the county in which the  
13 violation occurred or is occurring or of the county in which  
14 the waters thereof are polluted as the result of such  
15 violation.

16 Upon application by the director, the circuit courts of  
17 the state or the judges thereof in vacation may by injunc-  
18 tion compel compliance with and enjoin violations of the  
19 provisions of this article, the rules of the board or director,  
20 effluent limitations, the terms and conditions of any  
21 permit granted under the provisions of this article, or any  
22 order of the director or board, and the venue of any such  
23 actions shall be the county in which the violations or  
24 noncompliance exists or is taking place or in any county in  
25 which the waters thereof are polluted as the result of such  
26 violation or noncompliance. The court or the judge thereof  
27 in vacation may issue a temporary or preliminary injunc-  
28 tion in any case pending a decision on the merits of any  
29 injunction application filed. Any other section of this code  
30 to the contrary notwithstanding, the state is not required  
31 to furnish bond as a prerequisite to obtaining injunctive  
32 relief under this article. An application for an injunction  
33 under the provisions of this section may be filed and  
34 injunctive relief granted notwithstanding that all of the  
35 administrative remedies provided for in this article have  
36 not been pursued or invoked against the person or persons  
37 against whom such relief is sought and notwithstanding  
38 that the person or persons against whom such relief is

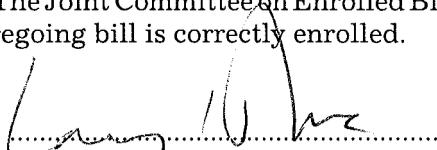
39 sought have not been prosecuted or convicted under the  
40 provisions of this article.

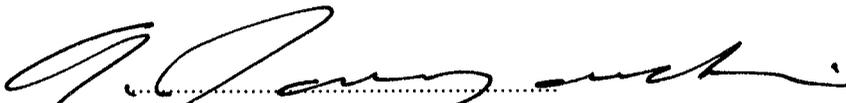
41 The judgment of the circuit court upon any application  
42 filed or in any civil action instituted under the provisions  
43 of this section is final unless reversed, vacated or modified  
44 on appeal to the supreme court of appeals. Any such  
45 appeal shall be sought in the manner provided by law for  
46 appeals from circuit courts in other civil cases, except that  
47 the petition seeking review in any injunctive proceeding  
48 must be filed with said supreme court of appeals within  
49 ninety days from the date of entry of the judgment of the  
50 circuit court.

51 Legal counsel and services for the chief, director or the  
52 board in all civil penalty and injunction proceedings in the  
53 circuit court and in the supreme court of appeals of this  
54 state shall be provided by the attorney general or his or  
55 her assistants and by the prosecuting attorneys of the  
56 several counties as well, all without additional compensa-  
57 tion, or the chief, director or the board, with the written  
58 approval of the attorney general, may employ counsel to  
59 represent him or her or it in a particular proceeding.

60 (b) In addition to the powers and authority granted to  
61 the director by this chapter to enter into consent agree-  
62 ments, settlements and otherwise enforce this chapter, the  
63 director shall propose, for legislative promulgation, rules  
64 in accordance with the provisions of article three, chapter  
65 twenty-nine-a of this code to establish a mechanism for  
66 the administrative resolution of violations set forth in this  
67 section through consent order or agreement as an alterna-  
68 tive to instituting a civil action.

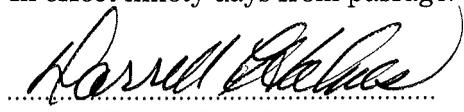
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

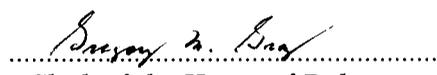
  
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Chairman Senate Committee

  
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Chairman House Committee

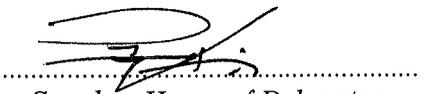
Originated in the Senate.

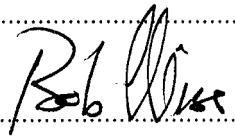
In effect ninety days from passage.

  
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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 House of Delegates

The within is appended this the 2nd  
Day of May ....., 2001.  
  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/61

Time 3:00 pm