

1 **Senate Bill No. 485**

2 (By Senators Kirkendoll, Beach, D. Hall, Miller, Snyder, Barnes,
3 Stollings and Plymale)

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5 [Introduced February 4, 2014; referred to the Committee on
6 Natural Resources; and then to the Committee on the Judiciary.]
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11 A BILL to amend and reenact §22-13-7 of the Code of West Virginia,
12 1931, as amended, relating to permitting requirements under
13 the Natural Streams Preservation Act; and exempting the
14 Division of Highways under certain circumstances.

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

16 That §22-13-7 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 13. NATURAL STREAMS PRESERVATION ACT.**

19 **§22-13-7. When permits required; when permits not to be issued.**

20 (a) It is unlawful for any person, until the ~~division's~~
21 ~~department's~~ permit ~~therefor~~ has been granted, to modify any
22 protected stream or any part ~~thereof~~ of the stream. ~~No~~ A permit
23 ~~shall~~ may not be issued unless the work proposed to be done under

1 ~~such~~ the permit:

2 ~~(a)~~ (1) Will not materially alter or affect the free-flowing
3 characteristics of a substantial part of a protected stream or
4 streams;

5 ~~(b)~~ (2) Is necessary to prevent an undue hardship; and

6 ~~(c)~~ (3) Meets with the approval of the ~~director~~ secretary.

7 (b) The Department of Transportation's Division of Highways is
8 not required to obtain a permit under this section when it is
9 repairing or replacing damaged bridges and that repair or
10 replacement requires the construction of temporary flow diversions
11 in the stream that will not permanently materially alter or affect
12 the free-flowing characteristics of a substantial part of the
13 steam, so long as boat passage remains available during the entire
14 period of bridge repair or replacement.

(NOTE: The purpose of this bill is to exempt the Division of Highways from the permitting requirements of the Natural Stream Preservation Act when it is building temporary construction access for bridge repair, so long as the construction does not impede or impair boat passage.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)