

Senate Bill No. 485

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

[Introduced February 4, 2014; referred to the Committee on
Natural Resources; and then to the Committee on the Judiciary.]

A BILL to amend and reenact §22-13-7 of the Code of West
Virginia, 1931, as amended, relating to permitting requirements
under the Natural Streams Preservation Act; and exempting the
Division of Highways under certain circumstances.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 13. NATURAL STREAMS PRESERVATION ACT.

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

- 1 (a) It is unlawful for any person, until the ~~division's~~
- 2 department's permit ~~therefor~~ has been granted, to modify any

3 protected stream or any part ~~thereof~~ of the stream. No A
4 permit ~~shall~~ may not be issued unless the work proposed to
5 be done under ~~such~~ the permit:

6 (a) (1) Will not materially alter or affect the free-flowing
7 characteristics of a substantial part of a protected stream or
8 streams;

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

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

11 (b) The Department of Transportation's Division of
12 Highways is not required to obtain a permit under this section
13 when it is repairing or replacing damaged bridges and that
14 repair or replacement requires the construction of temporary
15 flow diversions in the stream that will not permanently
16 materially alter or affect the free-flowing characteristics of a
17 substantial part of the steam, so long as boat passage remains
18 available during the entire period of bridge repair or
19 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.)