

1 SB53
2 155806-1
3 By Senator Glover
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 12/18/2013

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8 SYNOPSIS: Under the Alabama Safe Drinking Water Act,
9 the regulation of potable water is vested in the
10 Alabama Department of Environmental Management
11 (ADEM). In combination with the powers and
12 authority provided under the Federal Safe Drinking
13 Water Act and in compliance with the rules and
14 regulations promulgated by the United States
15 Environmental Protection Agency, ADEM is
16 responsible for the continued development and
17 enforcement of primary and secondary drinking water
18 standards to ensure that citizens of the state are
19 provided safe and wholesome drinking water from
20 suppliers of water.

21 Under existing law, there is no specific
22 provision which provides civil immunity to
23 suppliers of water who comply with or obtain an
24 exemption or variance from the regulations
25 established by the Department of Environmental
26 Management.

1 This bill would provide civil immunity to
2 suppliers of water who have substantially complied
3 with, or obtained an exemption or variance from,
4 the regulations established by the Department of
5 Environmental Management.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to suppliers of water; to add a new Section
12 22-23-54 to the Code of Alabama 1975, to explicitly provide
13 civil immunity to suppliers of water who have complied with,
14 or obtained an exemption or variance from, the regulations
15 established by the Alabama Department of Environmental
16 Management.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 22-23-54 is added to the Code of
19 Alabama 1975, to read as follows:

20 §22-23-54.

21 (a) Every supplier of water, including its
22 directors, officers, and employees, shall have immunity from
23 liability in law and equity arising out of or related to any
24 claim that the water is not fit or suitable for human
25 consumption or use, including, but not limited to, claims
26 related to the purity, potability, wholesomeness, physical
27 quality, or chemistry of the water, unless the complaining

1 party establishes by clear and convincing evidence each of the
2 following:

3 (1) That the water at issue fails to substantially
4 comply with the regulations promulgated pursuant to Sections
5 22-23-33 or 22-23-34.

6 (2) That any damage claimed was proximately caused
7 by such substantial noncompliance.

8 (3) That such noncompliance is not permitted or
9 otherwise allowed by variance or exemption granted under
10 Section 22-23-35 or by the terms of a consent decree or other
11 court order or by some other variance or exemption allowed by
12 the Alabama Department of Environmental Management (ADEM).

13 (b) This section does not create a new cause of
14 action or substantive legal right against a supplier of water.

15 (c) This section does not affect any immunities from
16 civil liability or defenses established by statute or
17 available at common law to which a supplier of water may be
18 entitled under circumstances not covered by this section.

19 (d) This section shall not be read to impair the
20 enforcement authority of ADEM under this chapter.

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.