

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 62.1-44.18:3, relating to permits*  
3 *for privately-owned sewerage systems and sewerage treatment works; penalty.*

4  
5 Approved

[S 177]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding a section numbered 62.1-44.18:3 as follows:**

8 *§ 62.1-44.18:3. Permit for private sewerage facility; financial assurance; violations.*

9 *A. No person shall operate a privately-owned sewerage system or sewerage treatment works, which*  
10 *is referred to as an LHS 120 facility, that discharges less than 40,000 gallons per day without obtaining*  
11 *a Virginia Pollutant Discharge Elimination System permit. Any owner of such a facility shall file with*  
12 *the Board a plan to abate, control, prevent, remove, or contain any substantial or imminent threat to*  
13 *public health or the environment that is reasonably likely to occur if such facility ceases operations.*  
14 *Such plan shall also include a demonstration of financial capability to implement the plan. Financial*  
15 *capability may be demonstrated by the creation of a trust fund, a submission of a bond, a corporate*  
16 *guarantee based upon audited financial statements, or such other instruments as the Board may deem*  
17 *appropriate. The Board may require that such plan and instruments be updated as appropriate.*

18 *For the purposes of this section, "ceases operation" means to cease conducting the normal operation*  
19 *of a facility that is regulated under this chapter under circumstances where it would be reasonable to*  
20 *expect that such operation will not be resumed by the owner at the facility. The term shall not include*  
21 *the sale or transfer of a facility in the ordinary course of business or a permit transfer in accordance*  
22 *with Board regulations.*

23 *Any person who ceases operations and who knowingly and willfully fails to implement a closure plan*  
24 *or to provide adequate funds for implementation of such plan shall, if such failure results in a*  
25 *significant harm or an imminent and substantial threat of significant harm to human health or the*  
26 *environment, be liable to the Commonwealth and any political subdivision thereof for the costs incurred*  
27 *in abating, controlling, preventing, removing, or containing such harm or threat. This shall not in any*  
28 *way limit other recourse available to the Board.*

29 *Any person who ceases operations and who knowingly and willfully fails to implement a closure plan*  
30 *or to provide adequate funds for implementation of such plan shall, if such failure results in a*  
31 *significant harm or an imminent and substantial threat of significant harm to human health or the*  
32 *environment, be guilty of a Class 4 felony.*

33 *B. The Department of Environmental Quality shall promulgate regulations necessary to carry out the*  
34 *provisions of this section. The Department shall identify by January 1, 2001, those facilities regulated*  
35 *under this section.*

36 **2. That the State Water Control Board shall promulgate regulations to implement the provisions**  
37 **of this act to be effective within 280 days of its enactment.**

38 **3. That the provisions of this act may result in a net increase in periods of imprisonment in state**  
39 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**  
40 **is \$0 in FY 2010.**

ENROLLED

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