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SENATE BILL NO. 837

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate McDonnell
on February 20, 2001)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact § 28.2-1203 of the Code of Virginia, relating to the exemption of riparian landowner from obtaining a bottomland permit.

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-1203 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1203. Unlawful use of subaqueous beds; penalty.

A. It shall be unlawful for any person to build, dump, trespass or encroach upon or over, or take or use any materials from the beds of the bays, ocean, rivers, streams, or creeks which are the property of the Commonwealth, unless such act is performed pursuant to a permit issued by the Commission or is necessary for the following:

1. Erection of dams, the construction of which has been authorized by proper authority;

2. Uses of subaqueous beds authorized elsewhere in this title;

3. Construction and maintenance of congressionally approved navigation and flood-control projects undertaken by the United States Army Corps of Engineers, the United States Coast Guard, or other federal agency authorized by Congress to regulate navigation, navigable waters, or flood control;

4. Construction of piers, docks, marine terminals, and port facilities owned or leased by or to the Commonwealth or any of its political subdivisions; or

5. Except as provided in subsection D of § 28.2-1205, placement of private piers for noncommercial purposes by owners of the riparian lands in the waters opposite those lands, provided that the piers do not extend beyond the navigation line or private pier lines established by the Commission or the United States Army Corps of Engineers. Subject to any applicable local ordinances, such piers may include an attached boat lift and an open-sided roof designed to shelter a single boat slip or boat lift. In cases in which such roofs will exceed 700 square feet in coverage, and in cases in which an adjoining property owner objects to a proposed roof structure, permits shall be required as provided in § 28.2-1204; or

6. Agricultural, horticultural or silvicultural irrigation on riparian lands or the watering of animals on riparian lands, provided that (i) no permanent structure is placed on or over the subaqueous bed, (ii) the person withdrawing water complies with requirements administered by the Department of Environmental Quality under Title 62.1, and (iii) the activity is conducted without adverse impacts to instream beneficial uses as defined in § 62.1-10.

B. A violation of this section is a Class 1 misdemeanor.