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HOUSE BILL NO. 2789

Offered January 17, 2003

A BILL to amend and reenact § 10.1-1400 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1424.2, relating to trichloroethylene prohibition; penalty.

Patron—Amundson

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1400 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section 10.1-1424.2 numbered as follows:

§ 10.1-1400. Definitions.

As used in this chapter unless the context requires a different meaning:

"Applicant" means any and all persons seeking or holding a permit required under this chapter.

"Board" means the Virginia Waste Management Board.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name, business address, and social security number of all key personnel;

2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;

3. A description of the business experience of all key personnel listed in the disclosure statement;

4. A listing of all permits or licenses required for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past ten years;

5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or local authority, within the past ten years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within ten years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past ten years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Equity" includes both legal and equitable interests.

"Federal acts" means any act of Congress providing for waste management and regulations

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59 promulgated thereunder.

60 "Hazardous material" means a substance or material in a form or quantity which may pose an
61 unreasonable risk to health, safety or property when transported, and which the Secretary of
62 Transportation of the United States has so designated by regulation or order.

63 "Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the
64 Comprehensive Environmental Response Compensation and Liability Act.

65 "Hazardous waste" means a solid waste or combination of solid waste which, because of its quantity,
66 concentration or physical, chemical or infectious characteristics, may:

67 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible
68 or incapacitating illness; or

69 2. Pose a substantial present or potential hazard to human health or the environment when
70 improperly treated, stored, transported, disposed of, or otherwise managed.

71 "Hazardous waste generation" means the act or process of producing hazardous waste.

72 "Household hazardous waste" means any waste material derived from households (including single
73 and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic
74 grounds and day-use recreation areas) which, except for the fact that it is derived from a household,
75 would be classified as a hazardous waste, including but not limited to, nickel, cadmium, mercuric oxide,
76 manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint
77 solvents; *any product containing trichloroethylene*, toxic art supplies, used motor oil and unusable
78 gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides,
79 or restricted-use pesticides as defined in § 3.1-249.27. All empty household product containers and any
80 household products in legal distribution, storage or use shall not be considered household hazardous
81 waste.

82 "Key personnel" means the applicant itself and any person employed by the applicant in a managerial
83 capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous
84 waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the
85 physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous
86 waste and such other employees as the Director may designate by regulation. If the applicant has not
87 previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any
88 officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of
89 the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key
90 personnel is not a natural person, the term includes all key personnel of that entity, provided that where
91 such entity is a chartered lending institution or a reporting company under the Federal Securities
92 Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the
93 term means the chief executive officer of any agency of the United States or of any agency or political
94 subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that
95 operates a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste
96 under contract with or for one of those governmental entities.

97 "Manifest" means the form used for identifying the quantity, composition, origin, routing and
98 destination of hazardous waste during its transportation from the point of generation to the point of
99 disposal, treatment or storage of such hazardous waste.

100 "Mixed radioactive waste" means radioactive waste that contains a substance which renders the
101 mixture a hazardous waste.

102 "Open dump" means a site on which any solid waste is placed, discharged, deposited, injected,
103 dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into
104 the environment or present a hazard to human health.

105 "Person" includes an individual, corporation, partnership, association, a governmental body, a
106 municipal corporation or any other legal entity.

107 "Radioactive waste" or "nuclear waste" includes:

108 1. "Low-level radioactive waste" material that:

109 a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as
110 defined in section 11e (2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014 (e) (2)); and

111 b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level
112 radioactive waste; or

113 2. "High-level radioactive waste" which means:

114 a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including
115 liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that
116 contains fission products in sufficient concentrations; and

117 b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing
118 law, determines by rule requires permanent isolation.

119 "Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber,
120 and insulation, which remain after a shredder has separated for purposes of recycling the ferrous and

121 nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste
122 remaining after removal of metals, glass, plastics and paper which are to be recycled as part of a
123 resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

124 "Resource conservation" means reduction of the amounts of solid waste that are generated, reduction
125 of overall resource consumption and utilization of recovered resources.

126 "Resource recovery" means the recovery of material or energy from solid waste.

127 "Resource recovery system" means a solid waste management system which provides for collection,
128 separation, recycling and recovery of solid wastes, including disposal of nonrecoverable waste residues.

129 "Sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it
130 does not pose a substantial present or potential hazard to human health or the environment, including
131 pollution of air, land, surface water or ground water.

132 "Sludge" means any solid, semisolid or liquid wastes with similar characteristics and effects
133 generated from a public, municipal, commercial or industrial wastewater treatment plant, water supply
134 treatment plant, air pollution control facility or any other waste producing facility.

135 "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid,
136 semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural
137 operations, or community activities but does not include (i) solid or dissolved material in domestic
138 sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are
139 sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or
140 by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

141 "Solid waste management facility" means a site used for planned treating, long term storage, or
142 disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

143 "Transport" or "transportation" means any movement of property and any packing, loading, unloading
144 or storage incidental thereto.

145 "Treatment" means any method, technique or process, including incineration or neutralization,
146 designed to change the physical, chemical or biological character or composition of any waste to
147 neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or
148 storage or reduced in volume.

149 "Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing
150 activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub
151 and tree prunings, bark, limbs, roots, and stumps.

152 "Waste" means any solid, hazardous or radioactive waste as defined in this section.

153 "Waste management" means the collection, source separation, storage, transportation, transfer,
154 processing, treatment and disposal of waste or resource recovery.

155 "Yard waste" means decomposable waste materials generated by yard and lawn care and includes
156 leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include
157 roots or stumps that exceed six inches in diameter.

158 § 10.1-1424.2. *Products containing trichloroethylene prohibited; penalty.*

159 *On and after January 1, 2004, it shall be unlawful for any person to use or to knowingly sell or*
160 *offer for sale any product manufactured or distributed for household or residential purposes that*
161 *contains trichloroethylene. Any person convicted of a violation of this section shall be guilty of a Class*
162 *3 misdemeanor.*