

043336404

HOUSE BILL NO. 1142

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake, and Natural Resources
on February 4, 2004)

(Patron Prior to Substitute— Delegate McDonnell)

A BILL to amend and reenact §§ 10.1-2500 and 29.1-573 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-573.1, relating to nonindigenous aquatic nuisance species.

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-573 and 10.1-2500 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 29.1-573.1 as follows:

§ 10.1-2500. Virginia Environmental Emergency Response Fund established.

A. There is hereby established the Virginia Environmental Emergency Response Fund, hereafter referred to as the Fund, to be used (i) for the purpose of emergency response to environmental pollution incidents and for the development and implementation of corrective actions for pollution incidents, other than pollution incidents addressed through the Virginia Underground Petroleum Storage Tank Fund, as described in § 62.1-44.34:11 of the State Water Control Law, (ii) to conduct assessments of potential sources of toxic contamination in accordance with the policy developed pursuant to § 62.1-44.19:10, and (iii) to assist small businesses for the purposes described in § 10.1-1197.3, and (iv) for costs and expenses necessary to prevent or alleviate damage caused by nonindigenous aquatic nuisance species as defined in § 29.1-571, when the presence of such nonindigenous aquatic nuisance species poses an imminent threat to public health and safety or the environment.

B. The Fund shall be a nonlapsing revolving fund consisting of grants, general funds, and other such moneys as appropriated by the General Assembly, and moneys received by the State Treasurer for:

1. Noncompliance penalties assessed pursuant to § 10.1-1311, civil penalties assessed pursuant to subsection B of § 10.1-1316 and civil charges assessed pursuant to subsection C of § 10.1-1316.

2. Civil penalties assessed pursuant to subsection C of § 10.1-1418.1, civil penalties assessed pursuant to subsections A and E of § 10.1-1455 and civil charges assessed pursuant to subsection F of § 10.1-1455.

3. Civil charges assessed pursuant to subdivision 8d of § 62.1-44.15 and civil penalties assessed pursuant to subsection (a) of § 62.1-44.32, excluding assessments made for violations of Article 9 (§ 62.1-44.34:8 et seq.) or 10 (§ 62.1-44.34:10 et seq.), Chapter 3.1 of Title 62.1, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

4. Civil penalties and civil charges assessed pursuant to § 62.1-270.

5. Civil penalties assessed pursuant to subsection A of § 62.1-252 and civil charges assessed pursuant to subsection B of § 62.1-252.

6. Civil penalties assessed in conjunction with special orders by the Director pursuant to § 10.1-1186 and by the Waste Management Board pursuant to subsection G of § 10.1-1455.

§ 29.1-573. Department; powers.

A. The Department may conduct operations and measures to suppress, control, eradicate, prevent, or retard the spread of any nonindigenous aquatic nuisance species. *The maximum effort shall be made to utilize the best available scientific technology that is specific to the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective.*

B. Such operations and measures shall be conducted subject to the appropriation of general funds authorized for the purpose of suppressing, controlling, eradicating, preventing, or retarding the spread of any nonindigenous aquatic nuisance species, or the receipt of funds designated for this purpose from private entities, local governments, political subdivisions, or federal grants. *If such funds are not available to carry out the purposes of this chapter, then the Secretary of Natural Resources shall seek and accept all possible funds from other sources, including federal, state, local, and private grants, loans, and donations.*

BC. In carrying out its powers, the Department may cooperate with any federal agencies, any agency of an adjacent state, any other state agencies, local governments, political subdivisions, and authorities within the Commonwealth. Other state agencies shall cooperate and provide assistance as requested by the Director in carrying out the purposes of this article.

§ 29.1-573.1. Declaration by Governor.

Whenever the Governor declares that the presence of nonindigenous aquatic nuisance species poses an imminent threat to public health and safety or the environment, then the costs of any control and eradication of the nonindigenous aquatic nuisance species shall be eligible for disbursement or

60 *reimbursement from the Virginia Environmental Emergency Response Fund established pursuant to*
61 *§ 10.1-2500.*