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**HOUSE BILL NO. 1094**

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend the Code of Virginia by adding in Chapter 46 of Title 59.1 a section numbered 59.1-529.1, relating to enforcement of the Virginia Post-Disaster Anti-Price Gouging Act; civil penalties.*

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Patrons—Amundson, BaCote, Tyler and Ward

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Referred to Committee on Commerce and Labor

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

**1. That the Code of Virginia is amended by adding in Chapter 46 of Title 59.1 a section numbered 59.1-529.1 as follows:**

*§ 59.1-529.1. Civil penalties.*

A. *As used in this section "Commissioner" means the Commissioner of Agriculture and Consumer Services.*

B. *The Commissioner shall be authorized to investigate any complaint for a violation of § 59.1-527.*

C. *Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Commissioner is authorized, upon finding that a supplier has violated any provision of § 59.1-527, to issue a special order requiring the supplier in violation of § 59.1-527 to pay civil penalties of not more than \$2,500 per violation per day. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. The Commissioner shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.*

D. *Special orders shall be issued only after a hearing before a hearing officer appointed by the Supreme Court in accordance with § 2.2-4020 with reasonable notice to the affected supplier of the time, place, and purpose thereof, and they shall become effective not less than five days after service as provided in subsection E.*

E. *Any special order issued under the provisions of this section need not be filed with the Secretary of the Commonwealth, but the owner to whom such special order is directed shall be notified by certified mail, return receipt requested, sent to the last known address of such owner, or by personal delivery by an agent of the Commissioner, and the time limits specified shall be counted from the date of receipt.*

F. *The actual amount of any civil penalty assessed shall be based upon the severity of the violation, the extent of any potential or actual harm, the compliance history of the supplier, any economic benefit realized from the violation, and the ability of the person to pay the penalty. The Board of Agriculture and Consumer Services shall provide the supplier with the calculation for the proposed penalty prior to any hearing conducted for the issuance of an order that assesses civil penalties pursuant to this section. All civil penalties collected pursuant to this section shall be deposited into the Literary Fund.*

G. *This section shall not be construed to affect the authority of a circuit court to impose civil penalties for violations of this chapter pursuant to § 59.1-206.*

INTRODUCED

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