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HOUSE BILL NO. 447**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Transportation
on January 26, 2006)

(Patron Prior to Substitute—Delegate Ware, R. L.)

A BILL to amend and reenact §§ 10.1-1402 and 46.2-635 of the Code of Virginia, relating to certification by vehicle demolishers of removal of mercury switches in motor vehicles prior to demolition.

Be it enacted by the General Assembly of Virginia:**1. That §§ 10.1-1402 and 46.2-635 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-1402. Powers and duties of the Board.

The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.

2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other state and federal agencies for the purpose of implementing this chapter and the federal acts.

3. Provide technical assistance and advice concerning all aspects of waste management.

4. Develop and keep current state waste management plans and provide technical assistance, advice and other aid for the development and implementation of local and regional waste management plans.

5. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.

6. Collect data necessary to conduct the state waste programs, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.

7. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal statute or regulation.

8. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste that it deems to be hazardous.

9. Consult and coordinate with the heads of appropriate state and federal agencies, independent regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.

10. Apply for federal funds and transmit such funds to appropriate persons.

11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.

12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the fee simple title to any lands, selected in the discretion of the Board as constituting necessary and appropriate sites to be used for the management of hazardous waste as defined in this chapter, including lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned property for a disposal site in accordance with the criteria for selection of a hazardous waste management site.

13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste management facilities.

14. Collect, from any person operating or using a hazardous waste management facility, fees sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary. All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste management facilities.

15a. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage or disposal facility or any person transporting hazardous waste, permit fees sufficient to defray only costs related to the issuance of permits as required in this chapter in accordance with Board regulations,

60 but such fees shall not exceed costs necessary to implement this subdivision. All fees received by the
61 Board pursuant to this subdivision shall be used exclusively for the hazardous waste management
62 program set forth herein.

63 15b. Collect fees from large quantity generators of hazardous wastes.

64 16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for
65 the disposal, treatment or storage of nonhazardous solid waste: (i) permit application fees sufficient to
66 defray only costs related to the issuance, reissuance, amendment or modification of permits as required
67 in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to
68 issue, reissue, amend or modify such permits and (ii) annual fees established pursuant to
69 § 10.1-1402.1:1. All such fees received by the Board shall be used exclusively for the solid waste
70 management program set forth herein. The Board shall establish a schedule of fees by regulation as
71 provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.

72 17. Issue, deny, amend and revoke certification of site suitability for hazardous waste facilities in
73 accordance with this chapter.

74 18. Make separate orders and regulations it deems necessary to meet any emergency to protect public
75 health, natural resources and the environment from the release or imminent threat of release of waste.

76 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites where solid
77 or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly
78 managed and to institute legal proceedings to recover the costs of the containment or clean-up activities
79 from the responsible parties.

80 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste
81 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the
82 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been
83 improperly managed, including sites eligible for a joint federal and state remedial project under the
84 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law
85 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law
86 99-499, and for investigations to identify parties responsible for such mismanagement.

87 21. Abate hazards and nuisances dangerous to public health, safety or the environment, both
88 emergency and otherwise, created by the improper disposal, treatment, storage, transportation or
89 management of substances within the jurisdiction of the Board.

90 22. Notwithstanding any other provision of law to the contrary, regulate the management of mixed
91 radioactive waste.

92 23. *Adopt regulations concerning the criteria and standards for removal of mercury switches by*
93 *vehicle demolishers.*

94 § 46.2-635. Surrender of certificates for vehicles to be demolished; securing new title certificates.

95 Every person disposing of a motor vehicle, trailer, or semitrailer which is to be demolished shall
96 make an assignment of title to the transferee as provided in § 46.2-628. The assigned certificate of title,
97 when available, however, shall be delivered to the Department, accompanied by a form provided by the
98 Commissioner, stating that the vehicle is to be demolished *and certifying that, before demolition, a good*
99 *faith effort was made to remove mercury switches in vehicles manufactured for the 2002 model year and*
100 *preceding model years.* On receipt of this form and the assigned title, the Commissioner shall forward to
101 the transferee a receipt for them. *Manufacturers of vehicles sold in the Commonwealth shall be*
102 *responsible for providing a method for storing, shipping, recycling, or disposing of mercury switches*
103 *removed from vehicles manufactured by them. For purposes of this section "mercury switches" means*
104 *each mercury-containing capsule, commonly known as a "bullet," that is part of a convenience light*
105 *switch in a vehicle manufactured for the 2002 model year or any preceding model year.*

106 If the person, in lieu of demolishing the vehicle, sells, transfers, or operates the motor vehicle, trailer,
107 or semitrailer, he shall first secure a certificate of title from the Department. Before issuing the new
108 certificate of title, the Department shall inspect, or have inspected, the reconstructed vehicle.

109 If a motor vehicle, trailer, or semitrailer obtained for use or resale, is subsequently demolished, the
110 owner shall immediately surrender its certificate of title to the Department.

111 **2. That prior to January 1, 2007, the Virginia Waste Management Board shall consult with the**
112 **Commissioner of the Department of Motor Vehicles and industry representatives and issue**
113 **guidelines or regulations concerning the criteria and standards for removal of mercury switches by**
114 **vehicle demolishers. Removal of mercury switches shall not be required in cases where it is**
115 **unreasonable, impractical, or the vehicle has been damaged in such as way as to prevent removal.**
116 **The Virginia Waste Management Board shall consult with vehicle manufacturers to develop**
117 **guidelines or regulations for storage, shipping, recycling, or disposal of mercury switches removed**
118 **from vehicles. Manufacturers shall participate individually or as a group in providing for**
119 **postremoval handling of mercury switches. Adoption of such regulations shall be exempt from the**
120 **provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**

121 **3. That the provisions of this act shall expire on July 1, 2012.**