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HOUSE BILL NO. 1786

Offered January 10, 2007

Prefiled December 28, 2006

A *BILL to amend and reenact § 10.1-1418.1 of the Code of Virginia, relating to improper disposal of solid waste.*

Patron—Kilgore

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 10.1-1418.1 of the Code of Virginia is amended and reenacted as follows:**

§ 10.1-1418.1. Improper disposal of solid waste; civil penalties.

A. It shall be the duty of all persons to dispose of their solid waste in a legal manner.

B. Any owner of real estate in this Commonwealth, including the Commonwealth or any political subdivision thereof, upon whose property a person improperly disposes of solid waste without the landowner's permission, shall be entitled to bring a civil action for such improper disposal of solid waste. When litter is improperly disposed upon land owned by the Commonwealth, any resident of the Commonwealth, *or nonprofit corporation having as a substantial portion of its work and mission to protect the natural resources and scenic beauty of the Commonwealth*, shall have standing to bring a civil action for such improper disposal of solid waste. When litter is improperly disposed of upon land owned by any political subdivision of this Commonwealth, any resident of that political subdivision shall have standing to bring a civil action for such improper disposal of solid waste. When any person improperly disposes of solid waste upon land within the jurisdiction of any political subdivision, that political subdivision shall have standing to bring a civil action for such improper disposal of solid waste.

C. In any civil action brought pursuant to the provisions of this section, when the plaintiff establishes by a preponderance of the evidence that (i) the solid waste or any portion thereof had been in possession of the defendant prior to being improperly disposed of on any of the properties referred to in subsection A of this section and (ii) no permission had been given to the defendant to place the solid waste on such property, there shall be a rebuttable presumption that the defendant improperly disposed of the solid waste. When the solid waste has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall in any civil action be presumed to be the person ejecting such matter. However, such presumption shall be rebuttable by competent evidence. This presumption shall not be applicable to a motor vehicle rental or leasing company that owns the vehicle.

D. Whenever a court finds that a person has improperly disposed of solid waste pursuant to the provisions of this section, the court shall assess a civil penalty of up to \$5,000 against such defendant. All civil penalties assessed pursuant to this section shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25 (§ 10.1-2500 et seq.) of this title, except as provided in subsection E.

E. Any civil penalty assessed pursuant to this section in a civil action brought by a political subdivision shall be paid into the treasury of the political subdivision, except where the violator of this section is the political subdivision or its agent. *Any civil penalty assessed pursuant to this section shall be paid to any Virginia nonprofit corporation that brings such an action on its own behalf provided that such corporation provides adequate evidence to the court that a substantial portion of its work and mission is to protect the natural resources and scenic beauty of the Commonwealth or any of its political subdivisions or watersheds.*

F. A court may award any person or political subdivision bringing suit pursuant to this section the cost of suit and reasonable attorney's fees.

INTRODUCED

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