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SENATE BILL NO. 135

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 11, 2008)

(Patron Prior to Substitute—Senator Stuart)

A *BILL to amend the Code of Virginia by adding a section numbered 3.1-106.4:2, relating to applying fertilizer to nonagricultural property; civil penalty.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 3.1-106.4:2 as follows:

§ 3.1-106.4:2. Board to adopt regulations for the application of regulated products to nonagricultural property; civil penalty.

A. The Board shall adopt regulations in accordance with the nutrient management training and certification program promulgated by the Department of Conservation and Recreation pursuant to § 10.1-1402. The regulations shall ensure that contractor-applicators who apply any regulated product to nonagricultural property are trained and properly apply such regulated products, including the appropriate procedures for the implementation of nutrient management practices, soil analysis techniques, equipment calibration, and the timing of the application. The Board shall form a technical advisory committee of stakeholders. The Board shall consult with the technical advisory committee of stakeholders and the Department of Conservation and Recreation in the development of the regulations.

B. Upon the effective date of regulations adopted pursuant to subsection A, no contractor-applicator shall apply any regulated product without first obtaining training as required by the Board's regulations.

C. The Board may impose a civil penalty of \$250 upon any contractor-applicator who fails to comply with the regulations. The contractor-applicator to whom a civil penalty is issued shall have 15 days to request an informal fact-finding conference, held pursuant to § 2.2-4019, to challenge the fact or amount of the civil penalty. If the civil penalty is upheld, the person or business against whom the civil penalty has been upheld shall have 15 days to pay the proposed penalty in full, or if the contractor-applicator wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Commission's office for placement in an interest-bearing trust account in the State Treasurer's office. If through administrative or judicial review of the proposed penalty, it is determined that no violation occurred, or that the amount of penalty should be reduced, the Commissioner shall within 30 days of that determination remit the appropriate amount to the person or business with interest accrued thereon. If the violation is upheld, the amount collected shall be paid into the special fund established in § 3.1-106.22.

2. That the Commissioner of Agriculture and Consumer Services shall report the status of the regulations and the implementation of the program to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources and the House Committee on Agriculture, Chesapeake and Natural Resources by July 1, 2009, and each succeeding year until the regulations have been adopted and the program has been implemented.