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SENATE BILL NO. 455

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on February 10, 2010)

(Patron Prior to Substitute—Senator Hurt)

A BILL to amend and reenact § 2.2-904.1 of the Code of Virginia, relating to one-stop small business permitting program; fees for veterans.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-904.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-904.1. One-stop small business permitting program.

A. As used in this section:

"Business Permitting Center" or "Center" means the business registration and permitting center established by this section and located in and under the administrative control of the Department.

"Comprehensive application" means a document incorporating pertinent data from existing applications for permits covered under this section.

"Comprehensive permit" means the single document designed for public display issued by the Business Permitting Center that certifies state agency permit approval and that incorporates the endorsements for individual permits included in the comprehensive permitting program.

"Comprehensive permitting program" or "Program" means the mechanism by which comprehensive permits are issued and renewed, permit and regulatory information is disseminated, and account data are exchanged by state agencies.

"Department" means the Department of Business Assistance or any division of the Department to which the Director has delegated or assigned the duties and responsibilities of administering the comprehensive permitting program.

"Permit" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, to engage in activity associated with or involving the establishment of a small business in the Commonwealth.

"Permit information packet" means a collection of information about permitting requirements and application procedures custom assembled for each request.

"Regulatory" means all permitting and other governmental or statutory requirements establishing a small business or professional activities associated with establishing a small business.

"Regulatory agency" means any state agency, board, commission, or division that regulates one or more professions, occupations, industries, businesses, or activities.

"Renewal application" means a document used to collect pertinent data for renewal of permits covered under this section.

"Small business" means an independently owned and operated business that, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years.

"Veteran" means an individual who has served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

B. There is created within the Department the comprehensive permitting program (the Program). The Program is established to serve as a single access point to aid entrepreneurs in filling out the various permit applications associated with establishing a small business in Virginia. The Program in no way supersedes or supplants any regulatory authority granted to any state agency with permits covered by this section. As part of the Program, the Department shall coordinate with the regulatory agency, and the regulatory agency shall determine consistent with applicable law, what types of permits are appropriate for inclusion in the Program as well as the rules governing the submission of and payment for those permits. The website of the Department shall provide access to information regarding the Program. The Department shall have the power and duty to:

1. Create a comprehensive application that will allow an entrepreneur, or an agent thereof, seeking to establish a small business, to create accounts that will allow them to acquire the appropriate permits required in the Commonwealth. The comprehensive application shall:

a. Allow the business owner to choose a business type and to provide common information, such as name, address, and telephone number, on the front page, eliminating the need to repeatedly provide common information on each permit application;

b. Allow the business owner to preview and answer questions related to the operation of the business;

c. Provide business owners with a customized to-do agency checklist, which checklist shall provide the permit applications pertinent to each business type and provide the rules, regulations, and general

60 laws applicable to each business type as well as local licensing information;
61 d. Allow the business owner to submit permit applications by electronic means as authorized by
62 § 59.1-496 and to affix thereto his electronic signature as defined in § 59.1-480;
63 e. Allow the business owner to check on the status of applications online and to receive information
64 from the permitting agencies electronically; and
65 f. Allow a business owner to submit electronic payment for application or permitting fees for
66 applications that have been accepted by the permitting agency.

67 2. Develop and administer a computerized system program capable of storing, retrieving, and
68 exchanging permit information, while protecting the confidentiality of information submitted to the
69 Department to the extent allowable by law. Information submitted to the Department shall be subject to
70 the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) as the same would apply
71 were the information submitted directly to the Department or to any permitting agency.

72 3. Issue and renew comprehensive permits in an efficient manner.

73 4. Identify the types of permits appropriate for inclusion in the Program. The Department shall
74 coordinate with the regulatory agency, and the regulatory agency shall determine consistent with
75 applicable law, what types of permits are appropriate for inclusion in the Program.

76 5. Incorporate permits into the Program.

77 6. Do all acts necessary or convenient to carry out the purposes of this chapter.

78 C. The Business Permitting Center shall compile information regarding the regulatory programs
79 associated with each of the permits obtainable under the Program. This information shall include, at a
80 minimum, a listing of the statutes and administrative rules requiring the permits and pertaining to the
81 regulatory programs that are directly related to the permit. The Center shall provide information
82 governed by this section to any person requesting it. Materials used by the Center to describe the
83 services provided by the Center shall indicate that this information is available upon request.

84 D. Each state agency shall cooperate and provide reasonable assistance to the Department in the
85 implementation of this section.

86 E. Any person requiring permits that have been incorporated into the Program may submit a
87 comprehensive application to the Department requesting the issuance of the permits. The comprehensive
88 application form shall contain in consolidated form information necessary for the issuance of the
89 permits.

90 F. The applicant, *if not a veteran*, shall include with the application the handling fee established by
91 the Department. *An applicant who is a veteran shall be exempt from payment of the handling fee*
92 *prescribed by this subsection.* The amount of the handling fee assessed against the applicant shall be set
93 by the Department at a level necessary to cover the costs of administering the comprehensive permitting
94 program.

95 G. The authority for approving the issuance and renewal of any requested permit that requires an
96 investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally
97 authorized to issue the permit shall remain with that agency. The Center may issue those permits for
98 which proper fee payment and a completed application form have been received and for which no
99 approval action is required by the regulatory agency.

100 H. Upon receipt of the application, and proper fee payment for any permit for which issuance is
101 subject to regulatory agency action under subsection G, the Department shall immediately notify the
102 regulatory agency with authority to approve the permit issuance or renewal requested by the applicant.
103 Each regulatory agency shall advise the Department within a reasonable time after receiving the notice
104 of one of the following:

105 1. That the regulatory agency approves the issuance of the requested permit and will advise the
106 applicant of any specific conditions required for issuing the permit;

107 2. That the regulatory agency denies the issuance of the permit and gives the applicant reasons for
108 the denial;

109 3. That the application is pending; or

110 4. That the application is incomplete and further information from or action by the applicant is
111 necessary.

112 I. The Department shall issue a comprehensive permit endorsed for all the approved permits to the
113 applicant and advise the applicant of the status of other requested permits. The applicant shall be
114 responsible for contesting any decision regarding conditions imposed or permits denied through the
115 normal process established by statute or by the regulatory agency with the authority for approving the
116 issuance of the permit.

117 J. Regulatory agencies shall be provided information from the comprehensive application for their
118 permitting and regulatory functions.

119 K. The Department shall be responsible for directing the applicant to make all payments for
120 applicable fees established by the regulatory agency directly to the proper agency.

121 L. There is hereby created in the state treasury a special nonreverting fund to be known as the

Comprehensive Permitting Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys collected from the handling fee established by the Department pursuant to subsection F and such other funds as may be appropriated by the General Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to administer the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by Director of the Department.

M. Unless otherwise directed by the regulatory agency, the Department shall not issue or renew a comprehensive permit to any person under any of the following circumstances:

1. The person does not have a valid tax registration, if required.
2. The person is a corporation, limited liability company, business trust, limited partnership or registered limited liability partnership that (i) is delinquent in the payment of fees or penalties collected by the State Corporation Commission pursuant to the business entity statutes it administers; (ii) does not exist; or (iii) is not authorized to transact business in the Commonwealth pursuant to one of the business entity statutes administered by the State Corporation Commission.

3. The person has not submitted the sum of all fees and deposits required for the requested individual permit endorsements, any outstanding comprehensive permit delinquency fee, or other fees and penalties to be collected through the comprehensive permitting program.

N. The Department may adopt regulations in accordance with § 2.2-901 as may be necessary to carry out the purposes of this section.