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**HOUSE BILL NO. 66**

Offered January 11, 2012

Prefiled December 19, 2011

A *BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 50, consisting of sections numbered 59.1-550 through 59.1-565, relating to the manufacturing of incandescent light bulbs.*

Patrons—Marshall, R.G. and Sherwood

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 Title 59.1 a chapter numbered 50, consisting of sections numbered 59.1-550 through 59.1-565, as follows:**

**CHAPTER 50.****INCANDESCENT LIGHT BULBS.****§ 59.1-550. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Commission" means the Virginia State Corporation Commission.*

*"Incandescent light bulb" or "ILB" means a device that produces light by heating a metal wire filament with an electric current until it glows, and which filament is encased in a glass bulb.*

*"Licensee" means a person to whom a license has been issued under this chapter.*

**§ 59.1-551. Purpose.**

*A. The purpose of this chapter is to encourage the manufacturing within the Commonwealth of ILBs that will be distributed only within the Commonwealth.*

*B. The General Assembly finds that:*

- 1. Licensing manufacturers of ILBs will encourage the manufacturing of such bulbs in Virginia;*
- 2. Access to a plentiful supply of ILBs will protect the public health, safety and welfare by providing citizens of the Commonwealth with better lighting quality than is provided by other types of light bulbs;*
- 3. Providing Virginians with ILBs will protect their eyesight from risks associated with the use of light bulbs that provide poorer quality illumination;*

*4. The use of ILBs protects the public safety and environment from the risk of mercury poisoning in homes, offices, and other places of residence and business and from pollution caused by landfill disposal of mercury-filled compact fluorescent light bulbs; and*

*5. The manufacturing within the Commonwealth of ILBs will benefit the public welfare by ensuring that Virginians, especially those receiving public assistance, have the opportunity to purchase ILBs at an affordable price.*

**§ 59.1-552. License optional.**

*A. A person may engage in the business of making ILBs in the Commonwealth without obtaining a license.*

*B. A person who elects to obtain a license to engage in the business of making ILBs in the Commonwealth may obtain a license upon complying with the requirements of this chapter.*

**§ 59.1-553. Applicability.**

*The provisions of this chapter shall not apply to any ILB manufacturer that does not elect to become licensed under this chapter. Electing not to become licensed under this chapter shall constitute a waiver of the benefit of any and all laws of the Commonwealth and other states and federal laws preemptive of, or inconsistent with, the provisions of this chapter.*

**§ 59.1-554. Application for license; form; content; fee.**

*A. An application for a license under this chapter shall be made in writing, under oath and on a form provided by the Commission.*

*B. The application shall set forth:*

- 1. The name and address of the applicant;*
- 2. If the applicant is a firm or partnership, the name and address of each member of the firm or partnership;*
- 3. If the applicant is a corporation or a limited liability company, the name and address of each officer, director, registered agent, and each principal;*
- 4. The addresses of the locations of the facility at which ILBs will be manufactured; and*
- 5. Such other information concerning the background, experience, and activities of the applicant and its members, officers, directors, and principals as the Commission may require.*

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59 C. The application shall be accompanied by payment of an application fee of \$500.

60 D. The application fee shall not be refundable in any event. The fee shall not be abated by  
61 surrender, suspension, or revocation of the license.

62 § 59.1-555. Investigation of applications.

63 The Commission may make such investigations as it deems necessary to determine if the applicant  
64 has complied with all applicable provisions of state law and regulation.

65 § 59.1-556. Qualifications.

66 A. Upon the filing and investigation of an application for a license, and compliance by the applicant  
67 with the provisions of § 59.1-554, the Commission shall issue and deliver to the applicant the license  
68 applied for to engage in the business of manufacturing ILBs under this chapter at the facility specified  
69 in the application if it finds that the financial responsibility, character, reputation, experience, and  
70 general fitness of the applicant and its members, senior officers, directors, and principals are such as to  
71 warrant belief that the business will be operated efficiently and fairly, in the public interest, and in  
72 accordance with state law and regulation.

73 B. If the Commission fails to make such findings, no license shall be issued and the Commission  
74 shall notify the applicant of the denial and the reasons for such denial.

75 § 59.1-557. Licenses; places of offices; changes.

76 A. Each license shall:

- 77 1. State the address of the facility at which the business of manufacturing ILBs is to be conducted;
- 78 2. State fully the name of the licensee; and
- 79 3. Be prominently posted in each of the licensee's ILB manufacturing facilities.

80 B. No licensee shall:

- 81 1. Use any name other than the name set forth on the license issued by the Commission; or
- 82 2. Open an additional facility or relocate any facility without prior approval of the Commission.

83 C. Applications for Commission approval to open an additional facility or relocate any facility shall  
84 be made in writing on a form provided by the Commission and shall be accompanied by payment of a  
85 \$150 nonrefundable application fee. The application shall be approved unless the Commission finds that  
86 the applicant has not conducted business under this chapter efficiently, fairly, in the public interest, and  
87 in accordance with state law and regulation. The application shall be deemed approved if notice to the  
88 contrary has not been mailed by the Commission to the applicant within 30 days of the date the  
89 application is received by the Commission. After approval, the applicant shall give written notice to the  
90 Commission within 10 days of the commencement of business at the additional or relocated facility.

91 D. Every licensee shall within 10 days notify the Commission, in writing, of the closing of any  
92 facility and provide such other information with respect thereto as the Commission may reasonably  
93 require.

94 E. Licenses shall:

- 95 1. Not be transferable or assignable, by operation of law or otherwise; and
- 96 2. Remain in force until they have been surrendered, revoked, or suspended. The surrender,  
97 revocation, or suspension of a license shall not affect any preexisting legal right or obligation of the  
98 licensee.

99 § 59.1-558. Retention of books, accounts, and records.

100 Every licensee shall maintain in its offices such books, accounts and records as the Commission may  
101 reasonably require in order to determine whether such licensee is complying with the provisions of this  
102 chapter.

103 § 59.1-559. Annual report.

104 Each licensee under this chapter shall annually, on or before April 1, file a written report with the  
105 Commission containing such information as the Commission may require concerning his business and  
106 operations during the preceding calendar year. Reports shall be made under oath and shall be in the  
107 form prescribed by the Commission.

108 § 59.1-560. Other reporting requirements.

109 A. A licensee shall file a written report with the Commission within 15 days following the occurrence  
110 of any of the following:

- 111 1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;
- 112 2. The institution of administrative or regulatory proceedings against the licensee by any  
113 governmental authority;
- 114 3. Any felony indictments of the licensee or any of its members, partners, directors, officers, or  
115 principals;
- 116 4. Any felony conviction of the licensee or any of its members, partners, directors, officers, or  
117 principals; and
- 118 5. Such other event as the Commission may prescribe by regulation.

119 B. The report shall be in writing and describe the event and its expected impact on the business of  
120 the licensee.

§ 59.1-561. Annual fees.

A. To defray the costs of supervision and regulation, every licensee shall pay an annual fee calculated in accordance with a schedule set by the Commission. The schedule shall bear a reasonable relationship to the business volume of licensees, the actual costs of their examinations, and to other factors relating to their supervision and regulation. All such fees shall be assessed on or before September 15 for every calendar year. All such fees shall be paid by the licensee to the State Treasurer on or before October 15 following each assessment.

§ 59.1-562. Regulations.

The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content and shall afford interested parties an opportunity to be heard, in accordance with the Commission's Rules of Practice and Procedure.

§ 59.1-563. Required and prohibited business methods.

Each licensee shall comply with the following requirements:

1. All ILBs manufactured by a licensee in a facility in Virginia for which a license has been issued as provided in this chapter shall be distributed by the licensee for sale at retail locations only within the Commonwealth;

2. A licensee shall not authorize or permit the sale or other distribution in another state or a foreign nation of any ILB manufactured by the licensee in a facility in Virginia for which a license has been issued as provided in this chapter; and

3. A licensee may not engage in unfair, misleading, deceptive, or fraudulent acts or practices in the conduct of its business.

§ 59.1-564. Suspension or revocation of license.

A. The Commission may suspend or revoke any license issued under this chapter upon any of the following grounds:

1. Any ground for denial of a license under this chapter;

2. A violation of the provisions of this chapter or regulations adopted by the Commission pursuant thereto;

3. A violation of any other state law or regulation applicable to the conduct of the licensee's business of manufacturing ILBs for distribution within the Commonwealth;

4. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;

5. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;

6. Entry of a federal or state administrative order against such licensee for violation of any state law or any regulation applicable to the conduct of his business;

7. Refusal to permit an investigation or examination by the Commission;

8. Failure to pay any fee or assessment imposed by this chapter; or

9. Failure to comply with any order of the Commission.

B. For the purposes of this section, acts of any officer, director, member, partner, or principal shall be deemed acts of the licensee.

§ 59.1-565. Representation by Attorney General.

The Office of the Attorney General is authorized to represent, or assist in the representation of, any licensee in any action instituted by the federal government, or by any person acting pursuant to color of federal law, in which it is alleged that the licensee has violated any provision of federal law regulating the manufacture or sale of ILBs.