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HOUSE BILL NO. 1136

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 15.2-906.2, relating to aboveground chemical storage tanks; local ordinance; inspection.*

Patron—Rasoul

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-906.2 as follows:

§ 15.2-906.2. Authority to require a permit for aboveground chemical storage tank; inspection; penalty.

A. As used in this section, unless the context requires a different meaning:

"Aboveground chemical storage tank" or "ACST" means a tank or storage container that, including its associated pipes, has a storage capacity of 250 gallons or more and is used for storing a chemical at standard temperature and pressure and the volume of which, including the volume of the pipes, is more than 90 percent above the surface of the ground. "Aboveground chemical storage tank" does not include (i) a tank used to contain at atmospheric pressure an accumulation of oil of any kind or in any form, including petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils, and all other liquid hydrocarbons regardless of specific gravity; (ii) a line pipe and breakout tank of an interstate pipeline regulated under the federal Hazardous Liquid Pipeline Safety Act of 1979, P.L. 96-129, or the federal Natural Gas Pipeline Safety Act of 1968, P.L. 90-481, as amended; (iii) a liquid trap, atmospheric or pressure vessel, or associated gathering lines related to oil or gas production and gathering operations; (iv) flow through process equipment used in processing or treating oil by physical, biological, or chemical means; (v) a shipping container that is subject to state or federal laws or regulations governing the transportation of hazardous materials, including a railroad freight car that is subject to federal regulation; (vi) a barge or boat subject to federal regulation under the United States Coast Guard, including federal regulations promulgated at 33 C.F.R. Chapter I, or subject to other federal law governing the transportation of hazardous materials; (vii) a swimming pool; (viii) a device containing surface water, groundwater, demineralized water, noncontact cooling water, drinking water for human or animal consumption, or water stored for fire or emergency purposes; (ix) a device containing food or food-grade materials used for human or animal consumption and regulated under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.; (x) a device located on a farm, the contents of which are used exclusively for farm purposes and not for commercial distribution; (xi) a device holding wastewater that is being actively treated or processed, including a clarifier, chlorine contact chamber, or batch reactor; (xii) a tank storing liquid manure, sludge, or wastewater regulated by the Virginia Pollutant Discharge Elimination System Permit Regulation, 9VAC25-31-10 et seq., or the Virginia Pollution Abatement Permit Regulation, 9VAC25-32-10 et seq.; (xiii) a tank that is empty and is held in inventory or offered for sale; or (xiv) a piece of electrical equipment, such as a transformer, circuit breaker, or voltage regulator transformer.

"API 653 Standard" means the American Petroleum Institute 653 Standard for tank inspection, repair, alteration, and reconstruction.

"Chemical" means an element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health or welfare or the environment.

"Chemical" includes any hazardous substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, P.L. 96-510, but not oil or any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976, P.L. 94-580.

"Secondary containment" means a safeguard applied to one or more aboveground chemical storage tanks that prevents the release into the waters of the state of the entire capacity of the largest single tank and has sufficient freeboard to contain precipitation. To qualify as secondary containment, the barrier and containment field shall be sufficiently impervious to contain fluids in the event of a release and may include double-walled tanks, dikes, containment curbs, pits, or drainage trench enclosures that safely confine the release from an aboveground chemical storage tank in a facility catchment basin or holding pond. Earthen dikes and similar containment structures shall be designed and constructed to contain, for a minimum of 72 hours, fluid that escapes from an aboveground chemical storage tank.

B. 1. A locality may adopt an ordinance making it unlawful for any person to construct, maintain, or

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59 use any aboveground chemical storage tank without first obtaining a permit from the local fire official.
60 Such an ordinance may also provide that the fire official may revoke a permit if the ACST is an
61 imminent threat to the public's health, safety, or welfare. The permit shall be approved contingent upon
62 compliance with API 653 Standard or, for an ACST that is smaller than the minimum size addressed by
63 API 653, an appropriate equivalent standard.

64 2. The penalty for violating any provision of such ordinance shall not be greater than the penalty
65 imposed for a Class 1 misdemeanor. Each day's violation shall be construed as a separate offense.

66 3. Any such ordinance may be made applicable to aboveground chemical storage tanks constructed
67 before, as well as those constructed after, the adoption of the ordinance.

68 4. Any such ordinance shall state whether secondary containment is required for any ACST.

69 C. 1. Prior to being placed in service, each aboveground chemical storage tank shall be inspected
70 according to, as a minimal requirement, the state-regulated API 653 Standard or, for an ACST that is
71 smaller than the minimum size addressed by API 653, a state-regulated appropriate equivalent standard.
72 The inspection shall cover the premises, tank, and related equipment and any secondary containment. A
73 licensed professional engineer who is registered in the Commonwealth, or a person who has been
74 certified according to API 653 Standard, Appendix D, shall conduct the inspection.

75 2. The Board of Housing and Community Development shall adopt regulations requiring that the
76 inspection, repair, alteration, or reconstruction of any new or existing ACST comply with API 653
77 Standard or, for an ACST that is smaller than the minimum size addressed by API 653, an appropriate
78 equivalent standard.