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HOUSE BILL NO. 1715

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on January 16, 2019)

(Patron Prior to Substitute—Delegate Bulova)

A BILL to amend and reenact § 10.1-609.2 of the Code of Virginia, relating to dams; wetland vegetation.

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-609.2 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-609.2. Prohibited vegetation; certain wetland vegetation allowed.

A. Dam owners shall not permit the growth of trees and other woody vegetation and shall remove any such vegetation from the slopes and crest of embankments and the emergency spillway area, and within a distance of 25 feet from the toe of the embankment and abutments of the dam.

B. *The provisions of subsection A shall not apply to wetland vegetation, including woody shrubs, trees, and plants, that is growing on a permanent aquatic or safety bench that has been added to the upstream embankment slope of a regulated impounding structure if such vegetation is associated with a wetland mitigation bank or in-lieu fee site that (i) has been approved by the U.S. Army Corps of Engineers and the Department of Environmental Quality and (ii) is the subject of a restrictive covenant or other permanent instrument that specifically protects the particular wetland vegetation from removal and is recorded among the land records of the locality. However, the Department may require the dam owner to remove trees by flush cutting unless the Department determines on the basis of site-specific information that the grubbing of roots is necessary to protect the integrity of the dam in a particular case.*

C. Owners failing to maintain their dam in accordance with this section shall be subject to enforcement pursuant to § 10.1-613.