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HOUSE BILL NO. 2761

Offered January 17, 2019

A *BILL to amend and reenact §§ 10.1-1000, 10.1-1002, and 10.1-1005 of the Code of Virginia, relating to cave and karst protection; penalty.*

Patron—Rasoul

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1000, 10.1-1002, and 10.1-1005 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 10.

CAVE AND KARST PROTECTION ACT.

§ 10.1-1000. Definitions.

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

"Board" means the Cave Board.

"Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge including natural subsurface water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The word "cave" includes or is synonymous with cavern, sinkhole, natural pit, grotto, and rock shelter.

"Cave life" means any rare, *threatened*, or endangered animal or other life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system.

"Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

"Gate" means any structure or device located to limit or prohibit access or entry to any cave.

"Karst" means a landform produced by the dissolution of bedrock, typically characterized by sinkholes, sinking and losing streams, swallets, caves, springs, underground water flow that may pass beneath surface topographic divides, or a lack of surface streams compared with other landforms. Any portion of the landscape underlain by a bedrock map unit, as designated by the Virginia Department of Mines, Minerals, and Energy, that includes limestone or dolostone at the surface or shallow subsurface shall be considered to be a karst.

"Karst feature" means a landscape feature formed directly or indirectly by bedrock dissolution, and includes a cave, sinkhole, sinking stream, losing stream, swallet, or spring in a limestone area.

"Losing stream" means a perennial or intermittent stream that loses part of its flow to groundwater.

"Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

"Owner" means a person who owns title to land where a cave is located, including a person who owns title to a leasehold estate in such land, and including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions, or authorities, as well as counties, municipalities, and other political subdivisions of the Commonwealth.

"Person" means any individual, partnership, firm, association, trust, or corporation or other legal entity.

"Sinkhole" means a closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, uvala, blind valley, or sink.

"Sinking stream" means a perennial or intermittent surface stream that flows entirely into the ground.

"Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.

"Speleothem" means a natural mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, palette, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, and other similar minerals.

"Spring" means a natural feature where water stored in an aquifer or flowing underground is discharged to the surface.

"Swallet" means the specific landscape feature and location where a sinking stream disappears into

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59 *the ground.*

60 **§ 10.1-1002. Powers and duties of Cave Board.**

61 A. The Cave Board may perform all tasks necessary to carry out the purposes of this chapter,
62 including the following:

63 1. Accept any gift, money, security or other source of funding and expend such funds to effectuate
64 the purposes of this chapter.

65 2. Serve as an advisory board to any requesting state agency on matters relating to caves and karst.

66 3. Conduct and maintain an inventory of publicly owned caves *and karst features* in Virginia.

67 4. Provide cave *and karst* management expertise and service to requesting public agencies and ~~eave~~
68 ~~owners private landowners~~.

69 5. Maintain a current list of all significant caves in Virginia and report any real and present danger
70 to such caves.

71 6. ~~Provide~~ *Work cooperatively with state agency staff and nongovernmental organizations to develop*
72 *and provide cave and karst data for use by state and other governmental agencies.*

73 7. Publish or assist in publishing articles, pamphlets, brochures or books on caves, *karsts*, and
74 ~~cave-related~~ *related* concerns.

75 8. Facilitate data gathering and research efforts on caves *and karsts by academia, state and federal*
76 *agencies, nongovernmental organizations, or the private sector.*

77 9. Advise civil defense authorities on the present and future use of Virginia caves *and other karst*
78 *landscape features such as springs* in civil defense.

79 10. Advise on the need for and desirability of a state cave recreation plan.

80 11. Inform the public about the value of cave *and karst* resources and the importance of preserving
81 them for the citizens of the Commonwealth.

82 B. The Cave Board shall have the duty to:

83 1. Protect the rare, unique and irreplaceable minerals and archaeological resources found in caves.

84 2. Protect and maintain cave life.

85 3. Protect the ground water flow which naturally occurs in *karst landscapes, including* caves from
86 water pollution.

87 4. Protect the integrity of caves that have unique characteristics or are exemplary natural community
88 types.

89 5. Make recommendations to ~~interested~~ state agencies concerning any proposed rule, regulation, or
90 administrative policy ~~which~~ *that* directly affects the use and conservation of caves in ~~this~~ *the*
91 Commonwealth.

92 6. *Offer training in collaboration with Department staff to governmental agencies whose activities*
93 *are likely to impact or be impacted by karst features.*

94 7. Study any matters of special concern relating to caves and ~~karst~~ *karsts*.

95 **§ 10.1-1005. Pollution or modification of karst features; penalties.**

96 A. It shall be unlawful for any person, without express, prior, written permission of the owner, to
97 store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, or toxic
98 substances harmful to cave life or humans, in any cave ~~or~~, sinkhole, *sinking stream, swallet, or other*
99 *karst feature*. It shall also be unlawful to burn within a cave or sinkhole any material which produces
100 any smoke or gas which is harmful to any naturally occurring organism in any cave.

101 B. Any violation of this section shall be punished as a Class 1 misdemeanor.