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HOUSE BILL NO. 1128

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 62.1-44.5, as it is currently effective and as it shall become effective, and 62.1-44.19:6 of the Code of Virginia, relating to discharge of deleterious substance into state waters; notice.*

Patron—Lopez

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.5, as it is currently effective and as it shall become effective, and 62.1-44.19:6 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.5. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Prohibition of waste discharges or other quality alterations of state waters except as authorized by permit; notification required.

A. Except in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

5. Discharge stormwater into state waters from Municipal Separate Storm Sewer Systems or land disturbing activities.

B. Any person in violation of the provisions of subsection A who discharges or causes or allows (i) a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written notice to the *Board and the* Director of the Department of Environmental Quality shall follow initial notice within the time frame specified by the federal Clean Water Act.

§ 62.1-44.5. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Prohibition of waste discharges or other quality alterations of state waters except as authorized by permit; notification required.

A. Except in compliance with a certificate, land-disturbance approval, or permit issued by the Board or other entity authorized by the Board to issue a certificate, land-disturbance approval, or permit pursuant to this chapter, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses;

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

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59 c. Permanent flooding or impounding; or
60 d. New activities that cause significant alteration or degradation of existing wetland acreage or
61 functions; or

62 5. Discharge stormwater into state waters from Municipal Separate Storm Sewer Systems or land
63 disturbing activities.

64 B. Any person in violation of the provisions of subsection A who discharges or causes or allows (i)
65 a discharge of sewage, industrial waste, other wastes, or any noxious or deleterious substance into or
66 upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon
67 learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of
68 the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant
69 to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written
70 notice to the *Board and the* Director of the Department of Environmental Quality shall follow initial
71 notice within the time frame specified by the federal Clean Water Act.

72 **§ 62.1-44.19:6. Citizen right-to-know provisions.**

73 A. The Board, based on the information in the 303(d) and 305(b) reports, shall:

74 1. Request the Department of Game and Inland Fisheries or the Virginia Marine Resources
75 Commission to post notices at public access points to all toxic impaired waters. The notice shall be
76 prepared by the Board and shall contain (i) the basis for the impaired designation and (ii) a statement of
77 the potential health risks provided by the Virginia Department of Health. The Board shall annually
78 notify local newspapers, and persons who request notice, of any posting and its contents. The Board
79 shall coordinate with the Virginia Marine Resources Commission and the Department of Game and
80 Inland Fisheries to assure that adequate notice of posted waters is provided to those purchasing hunting
81 and fishing licenses.

82 2. Maintain a "citizen hot-line" for citizens to obtain, either telephonically or electronically,
83 information about the condition of waterways, including information on toxics, toxic discharges, permit
84 violations and other water quality related issues.

85 3. Make information regarding the presence of toxics in fish tissue and sediments available to the
86 public on the Internet and through other reasonable means for at least five years after the information is
87 received by the Department of Environmental Quality. The Department of Environmental Quality shall
88 post on the Internet and in the Virginia Register on or about January 1 and July 1 of each year an
89 announcement of any new data that has been received over the past six months and shall make a copy
90 of the information available upon request.

91 B. The Board *or the Department of Environmental Quality* shall provide to a local ~~newspaper~~
92 *newspapers, television stations, and radio stations* the discharge information reported to the Director of
93 the Department of Environmental Quality pursuant to *subsection B of* § 62.1-44.5, when the Virginia
94 Department of Health determines that the discharge may be detrimental to the public health or the Board
95 determines that the discharge may impair beneficial uses of state waters, *as soon as practicable after*
96 *receipt of such information by the Department of Environmental Quality.*