

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 417

An Act to amend and reenact §§ 2.1-1.6, 9-6.25:1, 10.1-1414, 10.1-1415, 10.1-1416, 10.1-1422 and 58.1-1710 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1422.01 through 10.1-1422.05 and by adding in Article 1 of Chapter 17 of Title 58.1 a section numbered 58.1-1705, relating to litter control and recycling.

[S 881]

Approved March 20, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6, 9-6.25:1, 10.1-1414, 10.1-1415, 10.1-1416, 10.1-1422 and 58.1-1710 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1422.01 through 10.1-1422.05 and by adding in Article 1 of Chapter 17 of Title 58.1 a section numbered 58.1-1705 as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catocin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Certified Seed Board, State
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia
Deaf and Hard-of-Hearing, Advisory Board for the Department for the
Dentistry, Board of
Education, State Board of
Egg Board, Virginia

Emergency Medical Services Advisory Board
 Employment Agency Advisory Board
 Farmers Market Board, Virginia
 Film Office Advisory Board
 Fire Services Board, Virginia
 Forensic Science Advisory Board
 Forestry, Board of
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Goose Creek Scenic River Advisory Board
 Health Planning Board, Virginia
 Health Professions, Board of
 Health, State Board of
 Hearing Aid Specialists, Board for
 Hemophilia Advisory Board
 Historic Resources, Board of
 Housing and Community Development, Board of
 Industrial Development Services Advisory Board
 Insurance Advisory Board, State
 Irish Potato Board, Virginia
 Laboratory Services Advisory Board
Litter Control and Recycling Fund Advisory Board
 Marine Products Board, Virginia
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Medicare and Medicaid, Advisory Board on
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Migrant and Seasonal Farmworkers Board
 Military Affairs, Board of
 Mineral Mining Examiners, Board of
 Minority Business Enterprise, Interdepartmental Board of the Department of
 Motor Vehicle Dealers' Advisory Board
 Networking Users Advisory Board, State
 Nottoway State Scenic River Advisory Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Peanut Board, Virginia
 Personnel Advisory Board
 Pesticide Control Board
 Pharmacy, Board of
 Physical Therapy to the Board of Medicine, Advisory Board on
 Plant Pollination Advisory Board
 Polygraph Examiners Advisory Board
 Pork Industry Board, Virginia
 Poultry Products Board, Virginia
 Private College Advisory Board
 Private Security Services Advisory Board
 Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychiatric Advisory Board
 Psychology, Board of
 Public Buildings Board, Virginia
 Public Telecommunications Board, Virginia
 Radiation Advisory Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles

Recreational Fishing Advisory Board, Virginia
 Recreation Specialists, Board of
 Reforestation Board
 Rehabilitation Providers, Advisory Board on
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Safety and Health Codes Board
 Seed Potato Board
 Sewage Handling and Disposal Appeal Review Board, State Health Department
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 Small Grains Board, Virginia
 Social Services, Board of
 Social Work, Board of
 Soil and Water Conservation Board, Virginia
 Soybean Board, Virginia
 State Air Pollution Control Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Sweet Potato Board, Virginia
 Teacher Education and Licensure, Advisory Board on
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Transportation Board, Commonwealth
 Transportation Safety, Board of
 Treasury Board, The, Department of the Treasury
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos Licensing
 Virginia Coal Mine Safety Board
 Virginia Correctional Enterprises Advisory Board
 Virginia Employment Commission, State Advisory Board for the
 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
 Virginia Horse Industry Board
 Virginia Manufactured Housing Board
 Virginia Retirement System, Board of Trustees
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Voluntary Formulary Board, Virginia
 War Memorial Foundation, Virginia, Board of Trustees
 Waste Management Facility Operators, Board for
 Water Resources Research Center Statewide Advisory Board, Virginia
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia
 Youth and Family Services, State Board of.

B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be referred to as boards:

Compensation Board
 State Board of Elections
 State Water Control Board
 Virginia Parole Board
 Virginia Veterans Care Center Board of Trustees.
 § 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

Advisory Board for the Department for the Deaf and Hard-of-Hearing
 Advisory Board for the Department for the Aging
 Advisory Board on Child Abuse and Neglect
 Advisory Board on Medicare and Medicaid
 Advisory Board on Occupational Therapy
 Advisory Board on Physical Therapy to the Board of Medicine

Advisory Board on Rehabilitation Providers
 Advisory Board on Respiratory Therapy to the Board of Medicine
 Advisory Board on Teacher Education and Licensure
 Advisory Council on Revenue Estimates
 Advisory Council on the Virginia Business-Education Partnership Program
 Appomattox State Scenic River Advisory Board
 Aquaculture Advisory Board
 Art and Architectural Review Board
 (Effective until July 1, 1995) Board for the Visually Handicapped
 Board of Directors, Virginia Truck and Ornamentals Research Station
 Board of Forestry
 Board of Military Affairs
 Board of Rehabilitative Services
 Board of Transportation Safety
 Board of Trustees of the Family and Children's Trust Fund
 Board of Visitors, Gunston Hall Plantation
 Board on Veterans' Affairs
 Catoctin Creek State Scenic River Advisory Board
 Cave Board
 Chickahominy State Scenic River Advisory Board
 Clinch Scenic River Advisory Board
 Coal Surface Mining Reclamation Fund Advisory Board
 Council on Indians
 Council on the Status of Women
 Debt Capacity Advisory Committee
 Emergency Medical Services Advisory Board
 Falls of the James Committee
 Film Office Advisory Board
 Forensic Science Advisory Board
 Goose Creek Scenic River Advisory Board
 Governor's Council on Alcohol and Drug Abuse Problems
 Governor's Mined Land Reclamation Advisory Committee
 Hemophilia Advisory Board
 Human Services Information and Referral Advisory Council
 Industrial Development Services Advisory Board
 Interagency Coordinating Council on Housing for the Disabled
 Interdepartmental Board of the State Department of Minority Business Enterprise
 Laboratory Services Advisory Board
Litter Control and Recycling Fund Advisory Board
 Local Advisory Board to the Blue Ridge Community College
 Local Advisory Board to the Central Virginia Community College
 Local Advisory Board to the Dabney S. Lancaster Community College
 Local Advisory Board to the Danville Community College
 Local Advisory Board to the Eastern Shore Community College
 Local Advisory Board to the Germanna Community College
 Local Advisory Board to the J. Sargeant Reynolds Community College
 Local Advisory Board to the John Tyler Community College
 Local Advisory Board to the Lord Fairfax Community College
 Local Advisory Board to the Mountain Empire Community College
 Local Advisory Board to the New River Community College
 Local Advisory Board to the Northern Virginia Community College
 Local Advisory Board to the Patrick Henry Community College
 Local Advisory Board to the Paul D. Camp Community College
 Local Advisory Board to the Piedmont Virginia Community College
 Local Advisory Board to the Rappahannock Community College
 Local Advisory Board to the Southwest Virginia Community College
 Local Advisory Board to the Thomas Nelson Community College
 Local Advisory Board to the Tidewater Community College
 Local Advisory Board to the Virginia Highlands Community College
 Local Advisory Board to the Virginia Western Community College
 Local Advisory Board to the Wytheville Community College
 Long-Term Care Council
 Maternal and Child Health Council
 Medical Advisory Board, Department of Motor Vehicles

Medical Board of the Virginia Retirement System
 Migrant and Seasonal Farmworkers Board
 Motor Vehicle Dealer's Advisory Board
 Nottoway State Scenic River Advisory Board
 Personnel Advisory Board
 Plant Pollination Advisory Board
 Private College Advisory Board
 Private Enterprise Commission
 Private Security Services Advisory Board
 Psychiatric Advisory Board
 Radiation Advisory Board
 Rappahannock Scenic River Advisory Board
 Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 St. Mary's Scenic River Advisory Committee
 State Advisory Board on Air Pollution
 State Advisory Board for the Virginia Employment Commission
 State Building Code Technical Review Board
 State Council on Local Debt
 State Health Benefits Advisory Council
 State Insurance Advisory Board
 State Land Evaluation Advisory Council
 State Networking Users Advisory Board
 State Public Records Advisory Council
 Statewide Independent Living Council
 Statewide Rehabilitation Advisory Council
 Statewide Rehabilitation Advisory Council for the Blind
 Staunton Scenic River Advisory Committee
 Telecommunications Relay Service Advisory Board
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Virginia Advisory Commission on Intergovernmental Relations
 Virginia Advisory Council for Adult Education and Literacy
 Virginia Coal Mine Safety Board
 Virginia Coal Research and Development Advisory Board
 Virginia Commission for the Arts
 Virginia Commission on the Bicentennial of the United States Constitution
 Virginia Correctional Enterprises Advisory Board
 Virginia Council on Coordinating Prevention
 Virginia Equal Employment Opportunity Council
 Virginia Interagency Coordinating Council
 Virginia Military Advisory Council
 Virginia Public Buildings Board
 Virginia Recycling Markets Development Council
 Virginia Technology Council
 Virginia Transplant Council
 Virginia Water Resources Research Center, Statewide Advisory Board
 Virginia Winegrowers Advisory Board.

§ 10.1-1414. Definitions.

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

"Advisory Board" means the Litter Control and Recycling Fund Advisory Board;

"Disposable package" or "container" means all packages or containers intended or used to contain solids, liquids or materials and so designated;

"Fund" means the Litter Control and Recycling Fund;

"Litter" means all waste material disposable packages or containers but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing;

"Litter bag" means a bag, sack, or durable material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag;

"Litter receptacle" means containers acceptable to the Department for the depositing of litter;

"Person" means any natural person, *corporation*, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative or group of individuals or entities of any kind;

"Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product which may or may not be similar to the original product;

"Sold within the Commonwealth" or "sales of the business within the Commonwealth" means all sales of retailers engaged in business within the Commonwealth and in the case of manufacturers and wholesalers, sales of products for use and consumption within the Commonwealth;

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; and

"Watercraft" means any boat, ship, vessel, barge, or other floating craft.

§ 10.1-1415. Litter Control Program.

The ~~Director~~ *Department* shall establish within the Department a Division of Litter Control and Recycling to conduct a continuous program support local, regional and statewide programs to control, prevent and eliminate litter from the Commonwealth and to encourage the recycling of discarded materials to the maximum practical extent. He shall appoint a qualified person to direct the work of the Division. The Department shall administer such program with funds generated from litter control taxes and from such other funds as may be appropriated. Litter control taxes shall include the taxes increased by Chapter 616 of the 1977 Acts of Assembly and the taxes imposed under §§ 58.1-1700 through 58.1-1710. Every department of state government and all governmental units and agencies of the Commonwealth shall cooperate with the Department in the administration and enforcement of this article.

This article is intended to add to and coordinate existing litter control removal and recycling efforts, and not to terminate existing efforts nor, except as specifically stated, to repeal or affect any state law governing or prohibiting litter or the control and disposition of waste.

§ 10.1-1416. Collection and survey of litter.

Collections and surveys of the kinds of litter that are discarded in violation of the laws of the Commonwealth shall be conducted as the need is determined by the Department, *after receipt of the recommendations of the Advisory Board*, or as directed by the General Assembly. The survey shall include litter found throughout the Commonwealth, including standard metropolitan statistical areas and rural and recreational areas. To the fullest extent possible, in standard metropolitan statistical areas the Department of Transportation shall make use of local litter and trash collection services through arrangements with local governing bodies and appropriate agencies, in the discharge of the duties imposed by this section. The Department of Transportation shall report to the Governor, the General Assembly and the Department as to the amount of litter collected pursuant to this section and shall include in its report an analysis of litter types, their weights and volumes, and, where practicable, the recyclability of the types of products, packages, wrappings and containers which compose the principal amounts of the litter collected. The products whose packages, wrappings and containers constitute the litter shall include, but not be limited to the following categories:

1. Food for human or pet consumption;
2. Groceries;
3. Cigarettes and tobacco products;
4. Soft drinks and carbonated waters;
5. Beer and other malt beverages;
6. Wine;
7. Newspapers and magazines;
8. Paper products and household paper;
9. Glass containers;
10. Metal containers;
11. Plastic or fiber containers made of synthetic material;
12. Cleaning agents and toiletries;
13. Nondrug drugstore sundry products;
14. Distilled spirits; and
15. Motor vehicle parts.

§ 10.1-1422. Further duties of Department.

In addition to the foregoing duties the Department shall:

1. Serve as the coordinating agency between the various industry and business organizations seeking to aid in the recycling and anti-litter effort;
2. Recommend to local governing bodies that they adopt ordinances similar to the provisions of this article;
3. Cooperate with all local governments to accomplish coordination of local recycling and anti-litter

efforts;

4. Encourage, ~~organize, and coordinate~~ all voluntary local recycling and anti-litter campaigns seeking to focus the attention of the public on the programs of the Commonwealth to control and remove litter and encourage recycling;

5. Investigate the availability of, and apply for, funds available from any private or public source to be used in the program provided for in this article;

6. Allocate funds annually for the study of available research and development in recycling and litter control, removal, and disposal, as well as study methods for implementation in the Commonwealth of such research and development. In addition, such funds may be used for the development of public educational programs concerning the litter problem and recycling. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the Board or the Department;

7. Investigate the methods and success of other techniques in recycling and the control of litter, and develop, encourage and coordinate programs in the Commonwealth to utilize successful techniques in recycling and the control and elimination of litter; *and*

8. ~~Promulgate regulations for making either direct or matching grants to localities to promote enforcement of anti-litter statutes and ordinances and to enhance local recycling and litter control programs; and~~

9. 8. Expend, *after receiving the recommendations of the Advisory Board,* at least ~~fifty~~ seventy-five percent of the funds ~~allocated deposited~~ annually to the Litter Control and Recycling Program into the Fund pursuant to contracts with localities. The Department may enter into contracts with planning district commissions for the receipt and expenditure of funds attributable to localities which designate in writing to the Department a planning district commission as the agency to receive and expend funds hereunder.

§ 10.1-1422.01. Litter Control and Recycling Fund established; use of moneys; purpose of Fund.

A. All moneys collected from the taxes imposed under §§ 58.1-1700 through 58.1-1710 and by the taxes increased by Chapter 616 of the 1977 Acts of Assembly, shall be paid into the treasury and credited to a special nonreverting fund known as the Litter Control and Recycling Fund, which is hereby established. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Director is authorized to release money from the Fund on warrants issued by the Comptroller after receiving and considering the recommendations of the Advisory Board for the purposes enumerated in subsection B of this section.

B. Moneys from the Fund shall be expended, according to the allocation formula established in subsection C of this section, for the following purposes:

1. Local litter prevention and recycling grants to localities that meet the criteria established in § 10.1-1422.04;

2. Statewide and regional litter prevention and recycling educational program grants to persons meeting the criteria established in § 10.1-1422.05; *and*

3. Payment to (i) the Department to process the grants authorized by this article and (ii) the administrative costs of the Advisory Board. The Director shall assign one person in the Department to serve as a contact for persons interested in the Fund.

C. All moneys deposited into the Fund shall be expended pursuant to the following allocation formula:

1. Seventy-five percent for grants made to localities pursuant to subdivision B 1 of this section;

2. Twenty percent for statewide and regional educational program grants made pursuant to subdivision B 2 of this section; *and*

3. Five percent for the administrative expenditures authorized pursuant to subdivision B 3 of this section.

§ 10.1-1422.02. Litter Control and Recycling Fund Advisory Board established; duties and responsibilities.

There is hereby created the Litter Control and Recycling Fund Advisory Board. The Advisory Board shall:

1. Review applications received by the Department for grants from the Fund and make recommendations to the Director for the award of all grants authorized pursuant to § 10.1-1422.01;

2. Promote the control, prevention and elimination of litter from the Commonwealth and encourage the recycling of discarded materials to the maximum practical extent; *and*

3. Advise the Director on such other litter control and recycling matters as may be requested by the Director or any other state agency.

§ 10.1-1422.03. Membership, meetings, and staffing.

A. The Advisory Board shall consist of five persons appointed by the Governor. Three members shall represent persons paying the taxes which are deposited into the Fund and shall include one member appointed from nominations submitted by recognized industry associations representing retailers; one member appointed from nominations submitted by recognized industry associations representing soft drink distributors; and one member appointed from nominations submitted by recognized industry

associations representing beer distributors. One member shall be a local litter or recycling coordinator. One member shall be from the general public.

B. Members shall serve four-year terms unless found to violate subsection E of this section. They shall not receive a per diem, compensation for their service, or travel expenses.

C. The Advisory Board shall elect a chairman and vice-chairman annually from among its members. The Advisory Board shall meet at least twice annually on such dates and at such times as they determine. Three members of the Advisory Board shall constitute a quorum.

D. Staff support and associated administrative expenses of the Advisory Board shall be provided by the Department from funds allocated from the Fund.

E. Any member who is absent from three consecutive meetings of the Advisory Board, as certified by the Chairman of the Advisory Board to the Secretary of the Commonwealth, shall be dismissed as a member of the Advisory Board. The replacement of any dismissed member shall be appointed pursuant to subsection A of this section and meet the same membership criteria as the member who has been dismissed.

§ 10.1-1422.04. Local litter prevention and recycling grants; eligibility and funding process.

The Director shall award local litter prevention and recycling grants to localities that apply for such grants and meet the eligibility requirements established in the Department's Guidelines for Litter Prevention and Recycling Grants (DEQ-LPR-2) which were in effect on January 1, 1995, and as may be amended by the Advisory Board after notice and opportunity to be heard by persons interested in grants awarded pursuant to this section. Grants awarded by the Director shall total the amount of Litter Control and Recycling Funds available annually as provided in subdivision B 1 of § 10.1-1422.01.

§ 10.1-1422.05. Statewide and regional litter control and recycling grants.

The Director, after receiving the recommendations of the Advisory Board, shall award statewide and regional litter prevention and recycling grants to persons for the public purpose of the development and implementation of statewide and regional litter prevention and recycling educational programs. For purposes of this section, the term "person" includes any nonprofit entity that the Director finds has experience and success in statewide litter control and recycling educational programs and has a membership that represents the Commonwealth at large as well as any person meeting the definition of "person" in § 10.1-1414. Grants awarded by the Director pursuant to this section shall total the amount of litter control and recycling funds available annually as provided in subdivision B 2 of § 10.1-1422.01.

§ 58.1-1705. Disposition of proceeds.

All moneys collected pursuant to this article, minus the necessary expenses of the Department of Taxation for the administration of this tax, as certified by the Commissioner, shall be deposited into the Litter Control and Recycling Fund established pursuant to § 10.1-1422.01.

§ 58.1-1710. Disposition of proceeds.

All moneys collected pursuant to this article, minus the necessary expenses of the Department of Taxation for the administration of this tax, as certified by the Commissioner, shall be deposited into the ~~general fund of the state treasury~~ Litter Control and Recycling Fund established pursuant to § 10.1-1422.01.

2. That the provisions of §§ 10.1-1422.02 and 10.1-1422.03 of the Code of Virginia shall become effective on July 1, 1995, and the other provisions of the first enactment shall become effective on July 1, 1996.