

1995 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

LD9809000

HOUSE BILL NO. 1862

Offered January 19, 1995

A BILL to amend and reenact § 10.1-1410 of the Code of Virginia, relating to financial responsibility for abandoned facilities; penalty.

Patron—Murphy

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1410 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1410. Financial responsibility for abandoned facilities; penalty.

A. The Board shall promulgate regulations which ensure that if a facility for the disposal or treatment of solid waste is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility.

B. The regulations may include bonding requirements, the creation of a trust fund to be maintained within the Department, self-insurance, other forms of commercial insurance, or such other mechanism as the Department may deem appropriate. Regulations governing the amount thereof shall take into consideration the potential for contamination and injury by the solid waste, the cost of disposal of the solid waste and the cost of restoring the facility to a safe condition. Any bonding requirements shall include a provision authorizing the use of personal bonds or other similar surety deemed sufficient to provide the protections specified in subsection A upon a finding by the Director that commercial insurance or surety bond cannot be obtained in the voluntary market due to circumstances beyond the control of the permit holder.

C. No state governmental agency shall be required to comply with such regulations.

D. Forfeiture of any financial obligation imposed pursuant to this section shall not relieve any holder of a permit issued pursuant to the provisions of this article of any other legal obligations for the consequences of abandonment of any facility.

E. Any funds forfeited pursuant to this section and the regulations of the Board shall be paid over to the county, city or town in which the abandoned facility is located *Director*. The county, city or town in which the facility is located *Director* shall then expend forfeited funds as necessary to restore and maintain solely for the purpose of restoring and maintaining the facility in a safe condition.

F. Any person who knowingly and willfully abandons a solid waste management facility without proper closure or without providing adequate financial assurance instruments for such closure shall, if such failure to close results in a significant harm or an imminent and substantial threat of significant harm to human health or the environment, be liable to the Commonwealth and any political subdivision for the costs incurred in abating, controlling, preventing, removing, or containing such harm or threat.

Any person who knowingly and willfully abandons a solid waste management facility without proper closure or without providing adequate financial assurance instruments for such closure shall, if such failure to close results in a significant harm or an imminent and substantial threat of significant harm to human health or the environment, be guilty of a Class 4 felony.

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