

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 795

An Act to amend and reenact § 55-519 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 32.1-176.5:1 and 62.1-44.15:4.1, relating to the reporting of oil releases and oil discharges.

[S 483]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 55-519 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-176.5:1 and 62.1-44.15:4.1 as follows:

§ 32.1-176.5:1. Department to test for oil contamination; maintain lists of private laboratories.

A. The Department shall disseminate the information on confirmed oil releases and discharges, contained in the Department of Environmental Quality's monthly report prepared pursuant to § 62.1-44.15:4.1, to local health departments and Department field offices. Local health departments and field offices shall make the reports available for public inspection.

B. Upon the request of any person whose private well is located in an area, as defined by the Department, where an oil release or discharge has been confirmed in the reports prepared by the Department of Environment Quality, the Department shall test the water supply of the private well for the presence of oil to determine whether there is risk to public health. The costs of such tests shall be borne by the person requesting the test, unless the Department finds the oil release or discharge poses a potential risk to the health of persons using that private well.

C. The Department shall maintain and make available, upon the request of any person, a list of various private companies located throughout the Commonwealth that possess the technical expertise to analyze water samples for the presence of oil constituents. Any private company providing such laboratory testing services may contact the Department and shall have its name placed on the list. The placement of a company on the list shall not constitute an endorsement of any company or its services.

§ 55-519. Required disclosures.

A. With regard to transfers described in § 55-517 of this chapter, the owner of the residential real property shall furnish to a purchaser one of the following:

1. A residential property disclaimer statement in a form provided by the Real Estate Board stating that the owner makes no representations or warranties as to the condition of the real property or any improvements thereon, and that the purchaser will be receiving the real property "as is," that is, with all defects which may exist, if any, except as otherwise provided in the real estate purchase contract; or

2. A residential property disclosure statement disclosing those items contained in a form provided by the Real Estate Board to implement the provisions of this chapter and to list items which are required to be disclosed relative to the physical condition of the property. Such disclosure form may include defects of which the owner has actual knowledge regarding: (i) the water and sewer systems, including the source of household water, water treatment system, sprinkler system; (ii) insulation; (iii) structural systems, including roof, walls, floors, foundation and any basement; (iv) plumbing, electrical, heating and air conditioning systems; (v) wood-destroying insect infestation; (vi) land use matters; (vii) hazardous or regulated materials, including asbestos, lead-based paint, radon and underground storage tanks; and (viii) other material defects known to the owner. The disclosure form shall contain a notice to prospective purchasers and owners (i) that the prospective purchaser and the owner may wish to obtain professional advice or inspections of the property and (ii) that information is available at the Department of Environmental Quality which identifies confirmed releases or discharges of oil which may affect the property. The disclosure form shall also contain a notice to purchasers that the information contained in the disclosure is the representations of the owner and is not the representations of the broker or salesperson, if any. The owner shall not be required to undertake or provide any independent investigation or inspection of the property in order to make the disclosures required by this chapter.

B. The disclosure and disclaimer forms shall contain a notice to purchasers that regardless of whether the owner proceeds under subdivision 1 or 2, the owner makes no representations with respect to any matters which may pertain to parcels adjacent to the subject parcel. Further, such notice shall advise purchasers to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement on a parcel of residential real property.

§ 62.1-44.15:4.1. Listing and notice of confirmed oil releases and discharges.

The Department of Environmental Quality shall notify the Department of Health of any confirmed release or discharge of oil, as defined in §§ 62.1-44.34:8 and 62.1-44.34:14, respectively, which requires that a site characterization investigation be conducted. Monthly notification to the Department

of Health shall occur within one week from the last day of the previous month and shall include information on the location of the site of each confirmed release or discharge during the monthly reporting period. The reporting of such information shall begin for releases or discharges of oil that have been confirmed on and after January 1, 1999.

2. That the provisions of this act shall become effective on January 1, 1999.