

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 10.1-1410 of the Code of Virginia, relating to financial responsibility*  
3 *for solid waste management facilities.*

4 [H 1023]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 10.1-1410 of the Code of Virginia is amended and reenacted as follows:**

8 § 10.1-1410. Financial responsibility for abandoned facilities; penalties.

9 A. The Board shall promulgate regulations which ensure that if a facility for the disposal, *transfer*, or  
10 treatment of solid waste is abandoned, the costs associated with protecting the public health and safety  
11 from the consequences of such abandonment may be recovered from the person abandoning the facility.  
12 *A facility that receives solid waste from a ship, barge or other vessel and is regulated under*  
13 *§ 10.1-1454.1 shall be considered a transfer facility for the purposes of this subsection.*

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

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

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

27 E. Any funds forfeited prior to July 1, 1995, pursuant to this section and the regulations of the Board  
28 shall be paid over to the county, city or town in which the abandoned facility is located. The county,  
29 city or town in which the facility is located shall expend forfeited funds as necessary to restore and  
30 maintain the facility in a safe condition.

31 F. Any funds forfeited on or after July 1, 1995, pursuant to this section and the regulations of the  
32 Board shall be paid over to the Director. The Director shall then expend forfeited funds as necessary  
33 solely to restore and maintain the facility in a safe condition. Nothing in this section shall require the  
34 Director to expend funds from any other source to carry out the activities contemplated under this  
35 subsection.

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

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

ENROLLED

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