

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 62.1-44.18:3, relating to permits*
3 *for privately-owned sewerage systems and sewerage treatment works; penalty.*

4
5 Approved

[S 177]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That the Code of Virginia is amended by adding a section numbered 62.1-44.18:3 as follows:**

8 *§ 62.1-44.18:3. Permit for private sewerage facility; financial assurance; violations.*

9 *A. No person shall operate a privately-owned sewerage system or sewerage treatment works,*
10 *including an LHS 120 facility, that discharges more than 1,000 gallons per day and less than 40,000*
11 *gallons per day without obtaining a Virginia Pollutant Discharge Elimination System permit. Any owner*
12 *of such a facility shall file with the Board a plan to abate, control, prevent, remove, or contain any*
13 *substantial or imminent threat to public health or the environment that is reasonably likely to occur if*
14 *such facility ceases operations. Such plan shall also include a demonstration of financial capability to*
15 *implement the plan. Financial capability may be demonstrated by the creation of a trust fund, a*
16 *submission of a bond, a corporate guarantee based upon audited financial statements, or such other*
17 *instruments as the Board may deem appropriate. The Board may require that such plan and instruments*
18 *be updated as appropriate.*

19 *For the purposes of this section, "ceases operation" means to cease conducting the normal operation*
20 *of a facility that is regulated under this chapter under circumstances where it would be reasonable to*
21 *expect that such operation will not be resumed by the owner at the facility. The term shall not include*
22 *the sale or transfer of a facility in the ordinary course of business or a permit transfer in accordance*
23 *with Board regulations.*

24 *Any person who ceases operations and who knowingly and willfully fails to implement a closure plan*
25 *or to provide adequate funds for implementation of such plan shall, if such failure results in a*
26 *significant harm or an imminent and substantial threat of significant harm to human health or the*
27 *environment, be liable to the Commonwealth and any political subdivision thereof for the costs incurred*
28 *in abating, controlling, preventing, removing, or containing such harm or threat. This shall not in any*
29 *way limit other recourse available to the Board.*

30 *Any person who ceases operations and who knowingly and willfully fails to implement a closure plan*
31 *or to provide adequate funds for implementation of such plan shall, if such failure results in a*
32 *significant harm or an imminent and substantial threat of significant harm to human health or the*
33 *environment, be guilty of a Class 4 felony.*

34 *B. The Department of Environmental Quality shall promulgate regulations necessary to carry out the*
35 *provisions of this section. The Department shall identify by January 1, 2001, those facilities regulated*
36 *under this section.*

37 **2. That the State Water Control Board shall promulgate regulations to implement the provisions**
38 **of this act to be effective within 280 days of its enactment.**

39 **3. That the provisions of this act may result in a net increase in periods of imprisonment in state**
40 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
41 **is \$0 in FY 2010.**

REENROLLED

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