

VIRGINIA ACTS OF ASSEMBLY -- 2010 RECONVENED SESSION

CHAPTER 815

An Act to amend and reenact §§ 28.2-110, 28.2-111, and 62.1-132.11:2 of the Code of Virginia, relating to Ballast Water Control Reports and maritime incidents.

[S 726]

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-110, 28.2-111, and 62.1-132.11:2 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-110. Filing requirements; penalty.

A. The operator, or a ship agent acting on behalf of the operator, of a commercial vessel that enters into Virginia waters shall file a Ballast Water Control Report form with the ~~Hampton Roads~~ Virginia Maritime Association as the designated agent of the Commission (i) within seventy-two hours of the completion of the discharge of ballast water if the commercial vessel discharges ballast water into Virginia waters, or (ii) prior to the commercial vessel's departure from Virginia waters if the commercial vessel does not discharge ballast water into Virginia waters. The operator, or ship agent of an operator, shall not be required to file a Ballast Water Control Report form if the commercial vessel's previous port-of-call is located within the United States Exclusive Economic Zone and a ballast water control report was previously filed upon entering the first port-of-call within the United States Exclusive Economic Zone. A Ballast Water Control Report form shall be deemed to have been filed when it is hand delivered to the ~~Hampton Roads~~ Virginia Maritime Association, sent by electronic mail or facsimile transmission and received by the ~~Hampton Roads~~ Virginia Maritime Association, or sent to the ~~Hampton Roads~~ Virginia Maritime Association by registered or certified mail, return receipt requested. The services of the ~~Hampton Roads~~ Virginia Maritime Association shall be provided at no cost to the Commission. The fees assessed by the ~~Hampton Roads~~ Virginia Maritime Association shall only be that amount necessary to cover the expenses for the reporting services provided to vessel operators and any associated recordkeeping related to the ballast water reporting requirements of this article. If in the judgment of the Commission or the ~~Hampton Roads~~ Virginia Maritime Association, the ~~Hampton Roads~~ Virginia Maritime Association is unable to satisfactorily perform its responsibilities, the Commission may (i) select another agent, provided proper notice of the change in the designated agent has been given to operators, or (ii) assume responsibility for carrying out the provisions of this section.

B. For commercial vessels whose point of origin is located outside the United States Exclusive Economic Zone and whose first port of call within the United States Exclusive Economic Zone is within Virginia waters, the filing of a copy of the completed form submitted by the operator to the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center with the ~~Hampton Roads~~ Virginia Maritime Association shall be deemed compliance with the reporting requirements of this section.

C. Any operator of a commercial vessel who knowingly fails to file a Ballast Water Control Report form with the ~~Hampton Roads~~ Virginia Maritime Association within the applicable time period set forth in subsection A, or who knowingly makes any false statement in a Ballast Water Control Report form submitted to the ~~Hampton Roads~~ Virginia Maritime Association, shall be guilty of a Class 1 misdemeanor.

§ 28.2-111. Adoption of guidelines and forms.

A. The Commission shall adopt the federal guidelines as the guidelines governing voluntary ballast water management practices to be followed by the operators of commercial vessels. The guidelines adopted by the Commission shall not require a commercial vessel to be operated in a manner that may threaten the safety of the commercial vessel, its crew or its passengers.

B. The Commission shall adopt Ballast Water Control Report forms, consistent with the form adopted by the United States Coast Guard and set forth in 33 C.F.R. Part 151, Subpart D, Appendix, to monitor compliance with the guidelines adopted pursuant to this section. The Commission shall adopt procedures to distribute the Ballast Water Control Report form to the operator of a commercial vessel, or to a ship agent for the operator, at the time the commercial vessel enters state waters or as soon thereafter as practicable.

C. The Commission shall submit copies of the forms received from operators of commercial vessels and ship agents acting on behalf of operators of commercial vessels with the National Ballast Water Information Clearinghouse of the Smithsonian Environmental Research Center on a quarterly basis. The ~~Hampton Roads~~ Virginia Maritime Association shall submit such forms to the Commission monthly.

§ 62.1-132.11:2. Maritime Incident Response Advisory Board established; duties; composition; appointment; terms.

The Maritime Incident Response Advisory Board is hereby established and is hereafter referred to as the Board. The purpose of the Board shall be to recommend and direct the development of goals, objectives, policies and plans needed to develop and improve management of maritime fire and incident issues in Hampton Roads and throughout the Commonwealth. This shall include recommendations for the use of state general funds for essential equipment and operation costs, including personnel, material, maintenance, supplies and training to promote an effective and efficient firefighting and incident management force. The Board shall be composed of fourteen members appointed by the Governor as follows: eight members with experience or expertise, personal or professional, in the areas of fire fighting or port management, one representative of the ~~Hampton Roads~~ *Virginia* Maritime Association, one representative of the Hampton Roads Maritime Incident Response Team, one representative of the Virginia Port Authority, the Executive Director of the Port Authority or his designee, the Commissioner of Marine Resources or his designee, and one citizen member.

Initial appointments shall be made as follows: four members shall be appointed for two years, five members shall be appointed for three years, and five members shall be appointed for four-year terms. The Governor shall designate the term to be served by each appointee at the time of appointment. Thereafter, all members shall be appointed for terms of four years each. Vacancies shall be filled for the unexpired terms. No member shall be eligible to serve more than two successive four-year terms; however, after expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto.

The Board shall elect a chairman and vice-chairman from among its members. Members of the Board shall receive no compensation for their services as members of the Board, but the nongovernmental member shall receive reasonable expenses. Upon the request of the Board, such staff support as is necessary for the conduct of the Board's business shall be furnished by the Port Authority.