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HOUSE BILL NO. 2103

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 3, 2011)

(Patron Prior to Substitute—Delegate Bulova)

A BILL to amend and reenact § 62.1-44.34:15.1 of the Code of Virginia, relating to aboveground storage tanks.

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.34:15.1 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.34:15.1. Regulations for aboveground storage tanks.

The Board shall adopt regulations and develop procedures necessary to prevent pollution of state waters, lands, or storm drain systems from the discharge of oil from new and existing aboveground storage tanks. These regulations shall be developed in substantial conformity with the current codes and standards recommended by the National Fire Protection Association. To the extent that they are consistent with the Board's program, the Board shall incorporate accepted industry practices contained in the American Petroleum Institute publications and other accepted industry standards when developing the regulations contemplated by this section. The regulations shall provide the following:

1. For existing aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control, testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the Board) and formal tank inspections every five years in accordance with accepted industry practices and procedures approved by the Board. Initial testing shall be on a schedule approved by the Board. Aboveground storage tanks totally off ground with all associated piping off ground, aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil, and aboveground storage tanks containing No. 5 or No. 6 fuel oil for consumption on the premises where stored shall not be subject to inventory control and testing for significant variations. In accordance with subdivision 5 of this section 6, the Board shall promulgate regulations which provide for variances from inventory control and testing for significant variation for (i) aboveground storage tanks with Release Prevention Barriers (RPBs) with all associated piping off ground, (ii) aboveground storage tanks with a de minimis capacity (12,000 gallons or less), and (iii) other categories of aboveground storage tanks, including those located within a building or structure, as deemed appropriate;

b. To prevent overfills, requirements for safe fill and shut down procedures, including an audible staged alarm with immediate and controlled shut down procedures, or equivalent measures established by the Board;

c. To prevent leaks from piping, requirements for cathodic protection, and pressure testing to be conducted at least once every five years, or equivalent measures established by the Board;

d. To prevent and identify leaks from any source, requirements (i) for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the Board, performed by a person certified or trained by the operator in accordance with Board requirements, (ii) for monthly gauging and inspection of all ground water monitoring wells located at the facility, and monitoring of the well head space for the presence of vapors indicating the presence of petroleum, and (iii) for quarterly sampling and laboratory analysis of the fluids present in each such monitoring well to determine the presence of petroleum or petroleum by-product contamination; and

e. To ensure proper training of individuals conducting inspections, requirements for proper certification or training by operators relative to aboveground storage tanks.

2. For existing aboveground storage tanks at facilities with an aggregate capacity of less than one million gallons but more than 25,000 gallons:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control and testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the Board). Initial testing shall be on a schedule approved by the Board. Aboveground storage tanks totally off ground with all associated piping off ground, aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil, and aboveground storage tanks containing No. 5 or No. 6 fuel oil for consumption on the premises where stored shall not be subject to inventory control and testing for significant variations. In accordance with subdivision 5 of this section 6, the Board shall promulgate regulations which provide for variances from inventory control and testing for significant variation for (i) aboveground storage tanks with Release Prevention Barriers (RPBs) with all associated piping off

60 ground, (ii) aboveground storage tanks with a de minimis capacity (12,000 gallons or less), and (iii)
61 other categories of aboveground storage tanks, including those located within a building or structure, as
62 deemed appropriate;

63 b. To prevent overfills, requirements for safe fill and shut down procedures;

64 c. To prevent leaks from piping, requirements for pressure testing to be conducted at least once every
65 five years or equivalent measures established by the Board; and

66 d. To prevent and identify leaks from any source, requirements for a visual inspection of the facility
67 each day of normal operations and a weekly inspection of the facility with a checklist approved by the
68 Board, performed by a person certified or trained by the operator in accordance with Board requirements
69 developed in accordance with subdivision 1 of this section.

70 3. For aboveground storage tanks existing prior to the effective date of the regulations required by
71 this section, when the results of a tank inspection indicate the need for replacement of the tank bottom,
72 the operator of a facility shall install a release prevention barrier (RPB) capable of: (i) preventing the
73 release of the oil and (ii) containing or channeling the oil for leak detection. The decision to replace an
74 existing tank bottom shall be based on the criteria established by regulations pursuant to this section.

75 4. *For aboveground storage tanks at facilities with an aggregate capacity of one million gallons or*
76 *greater existing prior to January 29, 1992, and located in a city surrounded by a county wherein the*
77 *urban county executive form of government is in effect, the Board shall establish performance standards*
78 *for operators to bring aboveground storage tanks into substantial conformance with regulations adopted*
79 *in accordance with subdivision 5. Operators shall meet such performance standards no later than July*
80 *1, 2021.*

81 5. The Board shall establish performance standards for aboveground storage tanks installed,
82 retrofitted or brought into use after the effective date of the regulations promulgated pursuant to this
83 subsection that incorporate all technologies designed to prevent oil discharges that have been proven in
84 accordance with accepted industry practices and shown to be cost-effective.

85 56. The Board shall establish criteria for granting variances from the requirements of the regulations
86 promulgated pursuant to this section (i) on a case-by-case basis and (ii) by regulation for categories of
87 aboveground storage tanks, except that the Board shall not grant a variance that would result in an
88 unreasonable risk to the public health or the environment. Variances by regulation shall be based on
89 relevant factors such as tank size, use, and location. Within ~~thirty~~ 30 days after the grant of a variance
90 for a facility, the Board shall send written notification of the variance to the chief administrative officer
91 of the locality in which the facility is located.