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## SENATE BILL NO. 641

Offered January 20, 2012

A *BILL to amend and reenact §§ 10.1-1308 and 10.1-1321 of the Code of Virginia, relating to air pollution; outdoor wood-burning heaters.*

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 Patron—Ruff

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 Referred to Committee on Agriculture, Conservation and Natural Resources

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

**1. That §§ 10.1-1308 and 10.1-1321 of the Code of Virginia are amended and reenacted as follows:**  
 § 10.1-1308. Regulations.

A. The Board, after having studied air pollution in the various areas of the Commonwealth, its causes, prevention, control and abatement, shall have the power to promulgate regulations, including emergency regulations, abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable. No such regulation shall prohibit the burning of leaves from trees by persons on property where they reside if the local governing body of the county, city or town has enacted an otherwise valid ordinance regulating such burning. The regulations shall not promote or encourage any substantial degradation of present air quality in any air basin or region which has an air quality superior to that stipulated in the regulations. Any regulations adopted by the Board to have general effect in part or all of the Commonwealth shall be filed in accordance with the Virginia Register Act (§ 2.2-4100 et seq.).

B. Any regulation that prohibits the selling of any consumer product shall not restrict the continued sale of the product by retailers of any existing inventories in stock at the time the regulation is promulgated.

C. Any regulation requiring the use of stage 1 vapor recovery equipment at gasoline dispensing facilities may be applicable only in areas that have been designated at any time by the U.S. Environmental Protection Agency as nonattainment for the pollutant ozone. For purposes of this section, gasoline dispensing facility means any site where gasoline is dispensed to motor vehicle tanks from storage tanks.

D. No regulation of the Board shall require permits for the construction or operation of qualified fumigation facilities, as defined in § 10.1-1308.01.

*E. The Board shall develop a model ordinance for localities, at their discretion, to regulate air pollution emissions resulting from the use of outdoor hydronic heaters such as residential wood-fired boilers.*

## § 10.1-1321. Local ordinances.

A. Existing local ordinances adopted prior to July 1, 1972, shall continue in force; however, in the event of a conflict between a Board regulation and a local ordinance adopted prior to July 1, 1972, the Board regulation shall govern, except when the conflicting local ordinance is more stringent.

B. The governing body of any locality proposing to adopt an ordinance, or an amendment to an existing ordinance, relating to air pollution after June 30, 1972, shall first obtain the approval of the Board as to the provisions of the ordinance or amendment *unless the ordinance conforms to a model ordinance developed by the Board through regulation*. No ordinance or amendment, except an ordinance or amendment pertaining solely to open burning, shall be approved by the Board which regulates any emission source that is required to register with the Board or to obtain a permit pursuant to this chapter and the Board's regulations.

INTRODUCED

SB641