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HOUSE BILL NO. 925

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact § 62.1-44.16:1 of the Code of Virginia, relating to local enforcement of industrial waste permits.

Patron—Bulova

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 62.1-44.16:1 of the Code of Virginia is amended and reenacted as follows:****§ 62.1-44.16:1. Local enforcement of industrial waste permits.**

A. Any locality that has adopted an ordinance for the testing and monitoring of the land application of industrial wastes pursuant to § 62.1-44.16 shall have the authority to order the abatement of any violation of § 62.1-44.16 or of any violation of any permit or certificate issued under that section. Such abatement order shall identify the activity constituting the violation, specify the provision of the Code of Virginia or permit condition violated by the activity, and order that the activity cease immediately.

B. In the event of any dispute concerning the existence of a violation, the activity alleged to be in violation shall be halted pending a determination by the Director, whose decision shall be final and binding unless reversed on judicial appeal pursuant to § 2.2-4026. Any person who fails or refuses to halt such activity may be compelled to do so by injunction issued by a court having competent jurisdiction. Upon determination by the Director that there has been a violation of § 62.1-44.16 or of any permit or certificate issued under that section and that such violation poses an imminent threat to public health, safety, or welfare, the Department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation. Neither the Board, the Commonwealth, nor any employee of the Commonwealth shall be liable for failing to provide the notification required by this section.

C. Local governments shall promptly notify the Department of all results from the testing and monitoring of the land application of industrial wastes performed by persons employed by local governments and any violation of § 62.1-44.16 or of any violation of any permit or certificate issued under that section, discovered by local governments.

D. 1. Any locality that owns or operates a municipal separate storm sewer system that is subject to a discharge permit issued pursuant to this chapter shall have the authority to adopt and administer an industrial and high-risk runoff program for industrial and commercial facilities as part of its municipal separate storm sewer system management program, defined under § 62.1-44.15:24.

2. The locality shall have the authority to include in its industrial and high-risk program an industrial or commercial facility notwithstanding the fact that the facility is also subject to (i) a permit issued by the Board under this chapter, (ii) a permit issued under the Virginia Waste Management Act (§ 10.1-1400 et seq.), or (iii) the federal Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq. The Board shall not delegate to the locality its authority or responsibilities as to such a facility under the federal Clean Water Act (33 U.S.C. § 1251 et seq.).

3. Unless it is required to do so by the adoption on or after January 1, 2018, of a federal regulation or an amendment to the federal Clean Water Act (33 U.S.C. § 1251 et seq.), the Board shall not impose upon the locality, by permit issuance or reissuance, any municipal separate storm sewer system permit condition requiring that (i) an industrial or commercial facility be included in the locality's industrial and high-risk runoff program, (ii) any state discharge monitoring reports or other required reports submitted by such a facility to the Department also be reviewed or enforced by the locality, or (iii) the locality impose additional monitoring requirements on a facility that exceed the requirements of any permit issued by the Board under this chapter. The limitation contained in this subdivision shall not be cause for the Board or the locality to initiate a major or minor modification of any municipal separate storm sewer system permit that is in effect as of January 1, 2018, during the term of that permit.

4. Notwithstanding the provisions of this section, the Board may, through a municipal separate storm sewer system permit that is issued to a locality, require the locality to refer any industrial or commercial facility to the Board or the Department if the locality becomes aware of a violation of any industrial stormwater management requirement contained in an individual or general Virginia Pollutant Discharge Elimination System permit issued to the facility pursuant to this chapter.

INTRODUCED

HB925