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SENATE BILL NO. 218

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 11, 2018)

(Patron Prior to Substitute—Senator Lewis)

A BILL to amend and reenact §§ 10.1-1414, 10.1-1415, and 10.1-1422 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1422.06, relating to recycling; beneficial use.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1414, 10.1-1415, and 10.1-1422 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1422.06 as follows:

§ 10.1-1414. Definitions.

As used in this article, unless the context requires a different meaning:

"Advisory Board" means the Litter Control and Recycling Fund Advisory Board;

"Beneficial use" means a use that is of benefit as a substitute for natural or commercial products and does not contribute to adverse effects on health or the environment. Beneficial use products are produced by but not limited to beneficiation facilities and recycling centers.

"Beneficiation facility" means a facility that uses methods including sorting by color, removal of contaminants, crushing, grinding, screening, grading, and monitoring of size and quality to produce clean, crushed glass cullet that satisfies the specifications of the end user of the cullet, including a manufacturer of glass containers or fiberglass.

"Disposable package" or "container" means all packages or containers intended or used to contain solids, liquids or materials and so designated;

"Fund" means the Litter Control and Recycling Fund;

"Litter" means all waste material disposable packages or containers but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing;

"Litter bag" means a bag, sack, or durable material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag;

"Litter receptacle" means containers acceptable to the Department for the depositing of litter;

"Person" means any natural person, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative or group of individuals or entities of any kind;

"Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;

"Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product which may or may not be similar to the original product;

"Recycling center" means a facility that (i) accepts recyclable materials that have already been separated at the source from municipal solid waste generated by either residential or commercial producers; (ii) processes source segregated recyclable materials, including mixed-paper fiber materials, metal and plastic postconsumer containers, and glass containers; and (iii) processes and sells recyclable materials according to end-user specifications. "Recycling center" does not include a facility for construction and demolition debris processing, sorting of municipal solid waste, incineration, sorting or processing of industrial waste, composting, or used tire processing.

"Sold within the Commonwealth" or "sales of the business within the Commonwealth" means all sales of retailers engaged in business within the Commonwealth and in the case of manufacturers and wholesalers, sales of products for use and consumption within the Commonwealth;

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; and.

"Watercraft" means any boat, ship, vessel, barge, or other floating craft.

§ 10.1-1415. Litter Control Program.

The Department shall support local, regional, and statewide programs to control, prevent, and eliminate litter from the Commonwealth and to encourage the recycling and beneficial use of discarded materials to the maximum practical extent. Every department of state government and all governmental units and agencies of the Commonwealth shall cooperate with the Department in the administration and enforcement of this article.

This article is intended to add to and coordinate existing litter control removal and recycling efforts, and not to terminate existing efforts nor, except as specifically stated, to repeal or affect any state law governing or prohibiting litter or the control and disposition of waste.

§ 10.1-1422. Further duties of Department.

In addition to the foregoing duties the Department shall:

1. Serve as the coordinating agency between the various industry and business organizations seeking to aid in the recycling, *beneficial use*, and anti-litter effort;

2. Recommend to local governing bodies that they adopt ordinances similar to the provisions of this article;

3. Cooperate with all local governments to accomplish coordination of local recycling, *beneficial use*, and anti-litter efforts;

4. Encourage all voluntary local recycling, *beneficial use*, and anti-litter campaigns seeking to focus the attention of the public on the programs of the Commonwealth to control and remove litter and encourage recycling;

5. Investigate the availability of, and apply for, funds available from any private or public source to be used in the program provided for in this article;

6. Allocate funds annually for the study of available research and development in recycling and litter control, removal, and disposal, as well as study methods for implementation in the Commonwealth of such research and development. In addition, such funds may be used for the development of public educational programs concerning the litter problem and recycling. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the Board or the Department;

7. Investigate the methods and success of other techniques in recycling and the control of litter, and develop, encourage, and coordinate programs in the Commonwealth to utilize successful techniques in recycling and *beneficial use* and the control and elimination of litter; and

8. Expend, after receiving the recommendations of the Advisory Board, at least 95% of the funds deposited annually into the Fund pursuant to contracts with localities. The Department may enter into contracts with planning district commissions for the receipt and expenditure of funds attributable to localities which designate in writing to the Department a planning district commission as the agency to receive and expend funds hereunder.

§ 10.1-1422.06. Beneficiation facility as manufacturer for grant purposes.

For the purpose of any state or local economic development incentive grant, including a grant awarded pursuant to the provisions of Chapter 51 (§ 2.2-5100 et seq.) of Title 2.2, a beneficiation facility or recycling center as defined in § 10.1-1414 shall be considered a manufacturer.

2. That the Virginia Department of Environmental Quality (the Department) shall provide to the General Assembly, not later than November 1, 2019, an evaluation of Virginia's solid waste recycling rates and a set of recommendations for improving the reliability of the supply of recycled materials during the next 10 years in order to provide for beneficial use, as defined in § 10.1-1414 of the Code of Virginia, as amended by this act, by industry. The evaluation shall consider incentive-based strategies, including the granting of economic development incentives for the construction of recycling centers and beneficiation facilities that have the potential to increase beneficial use of glass, plastic, metal, and fiber. The evaluation shall also investigate the effect of the operation of mixed-waste material recycling facilities on the quality and quantity of recyclable materials available for beneficial use.