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SENATE BILL NO. 657

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 16, 1998)

(Patron Prior to Substitute—Senator Marsh)

A BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 7.1, consisting of a section numbered 10.1-1454.1, relating to the transportation of wastes on waters of the state.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 7.1, consisting of a section numbered 10.1-1454.1, as follows:

Article 7.1.

Transportation of Solid and Medical Wastes on State Waters.

§ 10.1-1454.1. Regulation of wastes transported by water.

A. The Board shall develop regulations governing (i) the issuance of permits by rule to facilities receiving nonhazardous solid waste (except scrap metal and source-separated recyclables) and regulated medical waste from a ship, barge or other vessel transporting such wastes upon the navigable waters of the Commonwealth and (ii) to the extent consistent with federal law and regulation, the transportation of nonhazardous solid waste (except scrap metal and source-separated recyclables) and regulated medical waste upon the navigable waters of the Commonwealth and the loading and off-loading of ships, barges and other vessels transporting such waste. The regulations shall contain such provisions as are necessary to protect the health, safety, and welfare of the citizens of the Commonwealth and to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction, including but not limited to provisions that, to the extent allowable under federal law, require that containers holding wastes be watertight, and designed, secured and maintained to prevent the escape of wastes, liquids and odors and to prevent the loss or spillage of wastes in the event of an accident.

B. A facility utilized to receive nonhazardous solid waste (except scrap metal and source-separated recyclables) or regulated medical waste from a ship, barge or other vessel arriving at the facility upon the navigable waters of the Commonwealth, shall be deemed a solid waste management facility. On and after the date six months following the effective date of the regulations promulgated under subsection A: (i) no new facilities shall be constructed for the purposes of receiving any wastes regulated under subsection A from a ship, barge or other vessel without a permit issued in accordance with the Board's regulations and (ii) no facility receiving wastes regulated under subsection A by ship, barge or other vessel on the effective date of the regulations shall continue to receive such waste unless the facility owner or operator has submitted an application for a permit in accordance with the Board's regulations.

C. The Board shall establish a fee sufficient to cover the administration and enforcement of this article and the inspection and monitoring of ships, barges and other vessels carrying waste regulated under this article on the waters of the Commonwealth.

D. The Board shall promulgate regulations requiring owners and operators of ships, barges and other vessels transporting wastes regulated under this article to demonstrate financial responsibility sufficient to comply with the requirements of this article as a condition of operation. Regulations governing the amount of any financial responsibility required shall take into consideration: (i) the risk of potential damage or injury to state waters and the impairment of beneficial uses that may result from spillage or leakage from the ship, barge or vessel; (ii) the potential costs of containment and cleanup; and (iii) the nature and degree of injury or interference with general health, welfare and property that may result.

E. No person shall transport wastes regulated under this article on the navigable waters of the Commonwealth by ship, barge, or other vessel unless such ship, barge or vessel and the containers carried thereon are designed, constructed, loaded, maintained and operated so as to prevent the escape of liquids, waste and odors and to prevent the loss or spillage of waste in the event of an accident. A violation of this subsection shall be a Class 1 misdemeanor.

F. The owner or operator of a ship, barge or other vessel from which there is a spillage or loss to state waters of wastes subject to regulation under this article shall immediately report such spillage or loss in accordance with the regulations of the Board and shall immediately take all such actions as may be necessary to contain and remove such wastes from state waters.

SENATE

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