COMMITTEE REPORT

April 13, 2011

**H. 3617**

Introduced by Reps. Pitts, R.L. Brown, Allen, Bales, Brady, Knight, Ballentine, McLeod, Willis, Toole and Sellers

S. Printed 4/13/11--H.

Read the first time February 8, 2011.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3617) to amend the Code of Laws of South Carolina, 1976, by adding Section 48‑1‑95 so as to provide that a sewage system, or its treatment works, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/SECTION 1. Chapter 1, Title 48 of the 1976 Code is amended by adding:

“Section 48‑1‑95. (A) As used in this section:

(1) ‘Action plan’ or ‘plan’ means a schedule for implementing and completing repairs, upgrades, and improvements needed to minimize future repetitive significant spills of untreated or partially treated domestic sewage.

(2) ‘Capacity, Management, Operation, and Maintenance or ‘CMOM’ plan’ means a comprehensive, dynamic framework for wastewater utilities to identify and incorporate widely accepted wastewater industry practices to:

(a) better manage, operate, and maintain collection systems;

(b) investigate capacity constrained areas of the collection system; and

(c) respond to sanitary sewer overflow events.

(3) ‘Comprehensive review’ or ‘review’ means a complete technical assessment of the components and operation of a sewage system or its treatment works that are contributing to, or may be contributing to, repetitive significant spills of untreated or partially treated domestic sewage.

(4) ‘Department’ means the Department of Health and Environmental Control.

(5) ‘Significant spill’ means a net discharge from a wastewater utility of at least five thousand gallons of untreated or partially treated domestic sewage that could cause a serious adverse impact on the environment or public health. ‘Significant spill’ does not include spills caused by a natural disaster, direct act of a third party, or other act of God.

(6) ‘Wastewater utility’ or ‘utility’ means the operator or owner of a sewage collection system or its treatment works providing sewer service to the public. ‘wastewater utility’ does not include manufacturers, electric utilities, agricultural operations, and wastewater treatment systems located on property owned by the federal government.

(B) Utilities must notify the department of any significant spill orally within twenty-four hours and by written submission within five days.

(C) Upon receiving notice of a significant spill from a wastewater utility, the department must determine whether the responsible wastewater utility has had more than two significant spills per one hundred miles of its sewage collection system, in the aggregate and excluding private service laterals, during the twelve‑month period up to and including the date of the significant spill.

(D)(1) If the wastewater utility has had more than two significant spills per one hundred miles of its aggregate collection system miles during a twelve month period, the department shall issue an order directing the utility to complete a comprehensive review of the sewage system and treatment works facility identified pursuant to subsection (C), or if the wastewater utility has a department approved Capacity, Management, Operations, and Maintenance plan in place directing the utility to update this plan, the order must include, but is not limited to:

(a) the submission of the findings of the comprehensive review or CMOM update;

(b) the required implementation of any plans to minimize the recurrence of such significant spills.

(2) The comprehensive review or update to an approved CMOM, pursuant to subsection (D)(1), must be performed by a licensed South Carolina professional engineer.

(3) Unless the department’s order is being appealed, the comprehensive review or CMOM update must be initiated by the wastewater utility’s owner within two months of receiving an order from the department or, in the case of an appeal, within two months from the date the order becomes final and nonappealable.

(E) The department shall require that all wastewater utilities provide public notice of any significant spill of five thousand gallons or more within twenty-four house of the discovery. Where the responsible wastewater utility does not provide this notice, in addition to any enforcement response, the department shall provide public notice of the significant spill.

(F) Nothing in this section contravenes the department’s ability to undertake enforcement action under the Pollution Control Act, Chapter 1, Title 48, or any other state or federal law.”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

NELSON L. HARDWICK for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48‑1‑95 SO AS TO PROVIDE THAT A SEWAGE SYSTEM, OR ITS TREATMENT WORKS, THAT HAS HAD THREE OR MORE SEWAGE SPILLS IN A TWELVE‑MONTH PERIOD MUST COMPLETE A COMPREHENSIVE REVIEW OF THEIR OPERATIONS; TO PROVIDE FOR THE COMPREHENSIVE REVIEW; TO PROVIDE FOR THE DEVELOPMENT AND IMPLEMENTATION OF AN ACTION PLAN TO ADDRESS ISSUES RAISED IN THE COMPREHENSIVE REVIEW; TO PROVIDE SPENDING PRIORITIES FOR WASTEWATER UTILITIES THAT LACK FUNDS FOR IMPLEMENTING AN ACTION PLAN; TO PROVIDE THAT WASTEWATER UTILITIES THAT DEVELOP AN ACTION PLAN HAVE PRIORITY FOR STATE FUNDS OR STATE‑DIRECTED FEDERAL FUNDS; AND TO PROVIDE THAT REPETITIVE SPILLS MUST BE FORWARDED TO AND RECORDED BY THE SOUTH CAROLINA ENVIRONMENTAL CERTIFICATION BOARD.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 48 of the 1976 Code is amended by adding:

“Section 48‑1‑95. (A) As used in this section:

(1) ‘Action plan’ or ‘plan’ means a schedule for implementing and completing repairs, upgrades, and improvements needed to prevent future repetitive significant spills of untreated or partially treated domestic sewage.

(2) ‘Comprehensive review’ or ‘review’ means a complete technical assessment of the components and operation of a sewage system or its treatment works that are contributing to, or may be contributing to, repetitive significant spills of untreated or partially treated domestic sewage.

(3) ‘Significant spill’ means a spill that is large enough, taking into account the volume of the spill in relation to the average volume discharged by the utility during the previous twenty‑four months, to cause a serious adverse impact on the environment or public health.

(4) ‘Spill’ means the discharge of at least five thousand gallons, or any other amount that threatens public health, of untreated or partially treated sewage from a sewage system into the environment; except those caused by a natural disaster, severe weather event, or other act of God.

(5) ‘Wastewater utility’ or ‘utility’ means the operator or owner of a sewage system or its treatment works.

(B) Upon receiving notice of a spill, the department must investigate and make a determination concerning the cause of the spill, identify the particular sewage system or treatment works facility that contributed to, or may have contributed to, the spill and the utility that owns or operates it, and whether the spill is a significant spill. The department must then determine whether any of the identified facilities have had three or more significant spills during a twelve‑month period.

(C)(1) The department must enter an order directing a wastewater utility that owns or operates a facility that contributed to, or may have contributed to, three or more significant spills in a twelve‑month period to complete a comprehensive review of the sewage system and treatment works facility identified pursuant to subsection (B). The order must be transmitted to the utility as soon as practicable.

(2) The comprehensive review must be performed by a qualified professional engineer approved by the department. All reports compiled by the engineer performing the review must be submitted to the department.

(3) The comprehensive review must be initiated by the wastewater utility’s owner within three months of receiving an order from the department.

(D) Upon completion of the review, the wastewater utility must present the findings of the review to the department. The department must, within sixty days, provide guidance to the utility concerning the development of an action plan to address the causes of the repetitive spills and whether system upgrades may be necessary.

(E) The wastewater utility must fully implement the action plan no later than one year after the plan is completed; however, the utility may request an extension from the department of up to one year to implement the plan. The department must approve or disapprove this request within sixty days.

(F) A wastewater utility that lacks funds necessary to complete and implement an action plan ordered by the department only may utilize available funds for the operation and maintenance of the utility and servicing any outstanding debt. The remaining funds must be dedicated to completing and implementing the plan.

(G) Utilities that have a complete action plan approved by the department have priority for any state funds or state‑directed federal funds for construction, refurbishment, upgrading, or reconstruction of water infrastructure facilities.

(H) When repetitive spills occur that meet the threshold established in subsection (B), a record of the significant spill must be forwarded to the South Carolina Environmental Certification Board to be included in the file of the operator on duty and the operator in charge of the system at the time of the spill.”

SECTION 2. This act takes effect upon approval by the Governor.

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