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COMMITTEE REPORT

January 26, 2017

**H. 3218**

Introduced by Reps. Lucas, Hiott, V.S. Moss, Pitts, West and Crosby

S. Printed 1/26/17--H.

Read the first time January 10, 2017.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 3218) to amend Section 49-11-120, Code of Laws of South Carolina, 1976, relating to definitions under the Dams and Reservoirs Safety Act, 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. Section 49‑11‑120(4) of the 1976 Code is amended to read:

“(4) ‘Dam’ means an artificial barrier with appurtenant works, including, but not limited to, dams, levees, dikes, or floodwalls for the impoundment or diversion of waters or other fluids where failure may cause danger to life or property. However, this does not include a dam:

(a) less than twenty‑five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or less than twenty‑five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of less than fifty‑acre feet unless a situation exists where the hazard potential as determined by the department is such that dam failure or improper reservoir operation may cause loss of human life or serious damage to homes, industrial and commercial facilities, public utilities, main and secondary highways, or railroads;

(b) owned or operated by a department or an agency of the federal government;

(c) owned or licensed by the Federal Energy Regulatory Commission, the South Carolina Public Service Authority, the Nuclear Regulatory Commission, the United States Corps of Engineers, or other responsible federal licensing agencies considered appropriate by the department;

~~(d)~~ ~~upon which the Department of Transportation or county or municipal governments have accepted maintenance responsibility for a road or highway where that road or highway is the only danger to life or property with respect to failure of the dam.~~”

SECTION 2. Section 49‑11‑150 of the 1976 Code is amended to read:

Section 49‑11‑150. (A) The owner of a dam or reservoir constructed in this State solely is responsible for maintaining the dam or reservoir in a safe condition throughout the life of the structure. The owner of a dam or reservoir shall inform the department in writing within thirty days after title to the dam or reservoir legally has been transferred from his ownership. The notice must include the name, ~~and address~~ home or business address, phone number, and email address, if any, of the new owner.

(B) In addition to the requirements of subsection (A), an owner of a dam or reservoir not exempt from the provisions of this article also must provide the department annually no later than July first of each year with current contact information regarding the owner, including name, home or business address, phone number, and email address, if any, together with a completed dam owner checklist on a form provided by the department.

(C) The owner of a dam or reservoir ~~whose failure likely would cause loss of life or substantial property damage, a dam or reservoir~~ classified as a high or significant hazard ~~under existing regulations,~~ annually no later than July first of each year shall provide the department a current emergency action plan in the format the department by regulation requires, including updated contact information for emergency management officials, such as police, fire, EMS, or utility departments or personnel, and for downstream residents and business owners located in the inundation zone for that dam or reservoir. However, nothing in the emergency action plan or any other provision of law or regulation shall require or impose a responsibility on the owner of a dam or reservoir classified as a high or significant hazard to notify any downstream residents or business owners located in the inundation zone for that dam or reservoir if the dam or reservoir owner has reason to believe that it is near failure or has failed. The owner must notify emergency officials and the department’s Dams and Reservoirs Safety program of the dam or reservoir’s failure or potential failure. It is the responsibility of the emergency management officials identified in the emergency action plan to inform any downstream residents or business owners located in the inundation zone of this fact and to cause them to be evacuated if it is considered necessary.”

SECTION 3. Section 49-11-170 of the 1976 Code is amended by adding an appropriately numbered subsection to read:

“( ) The department shall not require any changes to the dam or its appurtenant works due to reclassification of a dam unless failure would likely cause loss of life, or the department, through inspection, identifies repairs that must be made.”

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND SECTION 49‑11‑120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS UNDER THE DAMS AND RESERVOIRS SAFETY ACT, SO AS TO REVISE CERTAIN DEFINITIONS IN ORDER TO MAKE THE PROVISIONS OF THIS ACT FURTHER APPLICABLE TO CERTAIN DAMS; AND TO AMEND SECTION 49‑11‑150, RELATING TO DAM OR RESERVOIR OWNERS BEING RESPONSIBLE FOR THE SAFE MAINTENANCE OF THEIR DAMS OR RESERVOIRS, NOTICE TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL OF DAM OR RESERVOIR OWNERSHIP CHANGES, AND EMERGENCY ACTION PLAN REQUIREMENTS FOR SPECIFIED DAM OWNERS, SO AS TO REQUIRE ANNUAL REPORTING TO THE DEPARTMENT BY DAM OR RESERVOIR OWNERS OF CERTAIN OWNER CONTACT AND OTHER INFORMATION, TOGETHER WITH A COMPLETED OWNER CHECKLIST, AND TO REQUIRE THE OWNERS OF DAMS OR RESERVOIRS CLASSIFIED AS A HIGH OR SIGNIFICANT HAZARD ANNUALLY TO PROVIDE A CURRENT EMERGENCY ACTION PLAN INCLUDING CONTACT INFORMATION OF SPECIFIED OFFICIALS, DOWNSTREAM RESIDENTS, AND BUSINESS OWNERS.

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

SECTION 1. Section 49‑11‑120(4) of the 1976 Code is amended to read:

“(4) ‘Dam’ means an artificial barrier with appurtenant works, including, but not limited to, dams, levees, dikes, or floodwalls for the impoundment or diversion of waters or other fluids where failure may cause danger to life or property. However, this does not include a dam:

(a) less than twenty‑five feet in height from the natural bed of the stream or watercourse measured at the downstream toe of the dam, or less than twenty‑five feet from the lowest elevation of the outside limit of the dam, if it is not across a stream channel or watercourse, to the maximum water storage elevation and has an impounding capacity at maximum water storage elevation of less than fifty‑acre feet unless a situation exists where the hazard potential as determined by the department is such that dam failure or improper reservoir operation may cause loss of human life or serious damage to homes, industrial and commercial facilities, public utilities, main and secondary highways or railroads, or may cause the failure of one or more downstream dams which could cause any of the above‑listed consequences;

(b) owned or operated by a department or an agency of the federal government;

(c) owned or licensed by the Federal Energy Regulatory Commission, the South Carolina Public Service Authority, the Nuclear Regulatory Commission, the United States Corps of Engineers, or other responsible federal licensing agencies considered appropriate by the department;

~~(d)~~ ~~upon which the Department of Transportation or county or municipal governments have accepted maintenance responsibility for a road or highway where that road or highway is the only danger to life or property with respect to failure of the dam.~~”

SECTION 2. Section 49‑11‑150 of the 1976 Code is amended to read:

Section 49‑11‑150. (A) The owner of a dam or reservoir constructed in this State solely is responsible for maintaining the dam or reservoir in a safe condition throughout the life of the structure. The owner of a dam or reservoir shall inform the department in writing within thirty days after title to the dam or reservoir legally has been transferred from his ownership. The notice must include the name, ~~and address~~ home or business address, phone number, and email address, if any, of the new owner.

(B) In addition to the requirements of subsection (A), an owner of a dam or reservoir not exempt from the provisions of this article also must provide the department annually no later than July first of each year with current contact information regarding the owner, including name, home or business address, phone number, and email address, if any, together with a completed dam owner checklist on a form provided by the department.

(C) The owner of a dam or reservoir ~~whose failure likely would cause loss of life or substantial property damage, a dam or reservoir~~ classified as a high or significant hazard ~~under existing regulations,~~ annually no later than July first of each year shall provide the department a current emergency action plan in the format the department by regulation requires, including updated contact information for emergency management officials and for downstream residents and business owners located in the inundation zone for that dam or reservoir.”

SECTION 3. This act takes effect upon approval by the Governor.

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