COMMITTEE REPORT

April 15, 2021

**S. 596**

Introduced by Senators Senn, Campsen, McElveen and Leatherman

S. Printed 4/15/21--S.

Read the first time February 23, 2021.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 596) to amend Chapter 1, Title 48 of the 1976 Code, relating to the Pollution Control Act, by adding Section 48-1-92, to provide, 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 SECTION 1 in its entirety and inserting:

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

“Section 48‑1‑92. (A) The department is to regulate stormwater discharges of pre~~‑~~production plastic at facilities that are not regulated based on the existing criteria of the National Pollutant Discharge Elimination System Stormwater Program. Pursuant to the program:

(1) pre‑production plastics are those products, to include pellets, powders, and flakes, that are utilized in the production of plastic products;

(2) post‑production plastics are those products created by activities including the melting, shaping, and molding of pre‑production plastics;

(3) the department shall promulgate regulations to add an additional category of industrial activity so that the operators of facilities that are primarily engaged in the transportation, transloading, packaging, wholesale, or storing of pre~~‑~~production plastics are subject to regulation by the program. The operators of facilities that transport, transload, package, wholesale, or store post‑production plastics shall not be included; and

(4) pre‑production plastic shall be classified as ‘other refuse’ for the purposes of the Water Classifications and Standards.

(B) The department shall promulgate regulations to implement best-practice requirements for facilities that are brought under regulation pursuant tothis section, including:

(1) the installation of containment systems at all storm drain discharge locations at a facility that are down‑gradient of an area where pre‑production plastic is handled;

(2) measures to contain pre-production plastic during the storage, handling, or transfer of the pre-production plastic, including the use of:

(a) sealed containers that will not rupture under typical loading or unloading activities;

(b) capture devices under all transfer valves and devices used in loading, unloading, or otherwise transferring pre-production plastic; and

(c) vacuums or vacuum‑type systems for the quick cleanup of fugitive pre-production plastic; and

(3) new best management practices reflecting updates in science and technology, or advances in detection and treatment technologies, as appropriate.

(C) The department may promulgate regulations necessary to implement the program and to provide additional requirements regarding the regulation of releases of pre‑production plastic from facilities into the waters or onto the land of this State.

(D) A facility that violates a provision of this section shall:

(1) for a first violation during a five‑year period, be subject to the department’s enforcement procedures outlined in its Uniform Enforcement Policy;

(2) for a second violation during a five‑year period, be assessed at least fifty percent of the maximum allowable penalty pursuant to Section 48‑1‑330; and

(3) for a third violation during a five‑year period, be fined up to one hundred thousand dollars and have its permit revoked for five years.” /

Renumber sections to conform.

Amend title to conform.

DANIEL B. VERDIN III for Committee.

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 48 OF THE 1976 CODE, RELATING TO THE POLLUTION CONTROL ACT, BY ADDING SECTION 48-1-92, TO PROVIDE FOR THE REGULATION OF PREPRODUCTION PLASTIC BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL.

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 48-1-92. (A) There is created within the department a program to regulate the release and discharge of preproduction plastic at facilities and to require the environmentally responsible cleanup of that plastic. Pursuant to the program:

(1) new facilities must apply for an individual permit to cover their discharges;

(2) when renewing the General Permit for Storm Water Discharges Associated with Industrial Activity for existing facilities, the department shall require the existing facilities to apply for individual stormwater permits; and

(3) all wastewater and individual stormwater permits issued pursuant to items (1) and (2) must require that:

(a) zero discharge and zero release of preproduction plastic occurs from the facility;

(b) the facility will conduct monthly monitoring outside the property line of the facility and in any receiving waters for wastewater or stormwater discharges to confirm that the zero discharge and zero release requirements are being met, with stormwater monitoring conducted within eight hours of a rainfall event;

(c) any preproduction plastic found within three hundred feet outside the property line of a facility will be presumed to have been released or discharged by that facility;

(d) the facility must report any violation of the zero discharge and zero release requirements to the department within two working days of the violation;

(e) violations of the zero discharge and zero release requirements are a violation of the permit; and

(f) the facility must clean up any discharged or released plastic in a manner that complies with the best available science and technology on the remediation of plastic pollution.

(B) Except as provided by subsection (C), a preproduction plastic facility must adopt and implement best management practices as established by the department and as updated every five years. The department’s best practices must include, but are not limited to:

(1) the installation of containment systems at all storm drain discharge locations at a facility that are down‑gradient of an area where preproduction plastic is handled at the facility;

(2) measures to contain preproduction plastic during the storage, handling, or transfer of the plastic, including the use of:

(a) sealed containers that will not rupture under typical loading or unloading activities;

(b) capture devices under all transfer valves and devices used in loading, unloading, or otherwise transferring preproduction plastic; and

(c) vacuums or vacuum‑type systems for the quick cleanup of fugitive preproduction plastic;

(3) good housekeeping measures;

(4) spill prevention and spill cleanup procedures;

(5) a maintenance program to ensure that all containment systems are functioning properly;

(6) new best management practices reflecting updates in science and technology, or advances in detection and treatment technologies;

(7) a source control and inspection program for all transportation of plastic off site; and

(8) an employee training program.

(C) The department may exempt a facility, in whole or in part, from the requirements of subsection (B) if the facility satisfies the criteria for a no-exposure certification pursuant to the department’s regulations. Regarding a facility exempted under this subsection, the department shall:

(1) require the facility to submit a no-exposure certification to the department not less than once every five years;

(2) establish criteria for submitting a no-exposure certification in all permit applications related to authorized discharges and releases from the facility;

(3) before approving the exemption, conduct an on-site inspection to confirm that the conditions at the facility requesting an exemption meet the criteria for a no-exposure certification; and

(4) require an independent third party to inspect off-site an area at least fifty feet in all directions of stormwater and wastewater outfalls for the presence of off-site plastic and report its findings to the department.

(D) The department may promulgate regulations necessary to implement the program and to provide additional requirements regarding the regulation of releases of preproduction plastic from facilities into the waters or onto the land of this State.

(E) A facility that violates a provision of this section shall:

(1) for a first violation during a five-year period, be subject to the department’s enforcement procedures outlined in its Uniform Enforcement Policy;

(2) for a second violation during a five-year period, be assessed at least fifty percent of the maximum allowable penalty pursuant to Section 48-1-330; and

(3) for a third violation during a five-year period, be fined up to one hundred thousand dollars and have its permit revoked for five years.”

SECTION 2. The Department of Health and Environmental Control shall implement the program pursuant to Section 48-1-92, as added by this act, no later than January 1, 2022.

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

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