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SENATE BILL NO. 1331

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 24, 2001)

(Patron Prior to Substitute—Senator Barry)

A BILL to amend and reenact § 22.1-202 of the Code of Virginia, relating to the Pledge of Allegiance in the public schools of the Commonwealth.

Whereas, Congress enacted the statute setting out the Pledge of Allegiance during the early stages of World War II at a time when national unity and concentrated effort were essential; and

Whereas, during the difficult days of World War II and the decades that have followed, the Pledge of Allegiance has symbolized our strength; and

Whereas, the Pledge of Allegiance is recited daily by many children and adults in the United States; and

Whereas, the Pledge of Allegiance symbolizes our national ideals and is an expression of our patriotic sentiment; and

Whereas, it is in our national and state interest to teach the children of our country about the history and values of the United States; now, therefore

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-202 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-202. Instruction in history and principles of flags of United States and Virginia; pledge of allegiance to American flag; guidelines developed by the Board.

A. Instruction in the history and principles of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division. The instruction shall include the pledge of allegiance and the appropriate etiquette and conventions for respecting the dignity and appropriate display of such flags.

In recognition of the civic heritage of the United States of America, all students shall be required to learn the Pledge of Allegiance and to demonstrate such knowledge.

B. To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools.

The Board's guidelines shall include, but shall not be limited to, provisions which address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the propriety and constitutionality of any recitation or participation requirements; appropriate etiquette and conventions for respecting the dignity and appropriate display of the flag of the United States and the flag of the Commonwealth; and relevant state and federal constitutional concerns, such as freedom of speech and religion.

These guidelines shall not be subject to the requirements of the Administrative Process Act (§ 9-6.14:1 et seq.). However, to provide appropriate opportunity for involvement by the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to the adoption of such guidelines.

C. Each school board shall require the daily recitation of the Pledge of Allegiance in each classroom of the school division and shall ensure that the flag of the United States is in place in each such classroom. Each school board shall determine the appropriate time during the school day for the recitation of the Pledge. During such Pledge of Allegiance, students shall stand and recite the Pledge while facing the flag with their right hands over their hearts or in an appropriate salute if in uniform; however, no student shall be compelled to recite the Pledge if he, his parent or legal guardian objects on religious, philosophical or other grounds to his participating in this exercise. Students who are thus exempt from reciting the Pledge shall remain quietly standing or sitting at their desks while others recite the Pledge and shall make no display that disrupts or distracts others who are reciting the Pledge. School boards shall provide appropriate accommodations for students who are unable to comply with the procedures described herein due to disability.

The school board's code of conduct shall apply to disruptive behavior during the recitation of the Pledge in the same manner as provided for other circumstances of such behavior.

D. The Office of the Attorney General shall intervene on behalf of local school boards and shall

60 *provide legal defense of the provisions of this section.*