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SENATE BILL NO. 1312

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on January 18, 2007)

(Patron Prior to Substitute—Senator Hawkins)

A BILL to amend and reenact §§ 33.1-13, 33.1-198, and 33.1-199 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.1-1989.1, relating to powers of the Commonwealth Transportation Commissioner, entrance connections to highways, and comprehensive highway access management standards

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-13, 33.1-198, and 33.1-199 of the Code of Virginia are emended and reenacted, and that the Code of Virginia is amended by adding a section numbered 33.1-1989.1 as follows:

§ 33.1-13. General powers of Commissioner.

Except such powers as are conferred by law upon the Commonwealth Transportation Board, the Commonwealth Transportation Commissioner shall have the power to do all acts necessary or convenient for constructing, improving and, maintaining, and preserving the efficient operation of the roads embraced in the systems of state highways and to further the interests of the Commonwealth in the areas of public transportation, railways, seaports, and airports. And as executive head of the Transportation Department, the Commissioner is specifically charged with the duty of executing all orders and decisions of the Board and he may, subject to the provisions of this chapter, require that all appointees and employees perform their duties under this chapter.

§ 33.1-198. Connections over shoulders of highways for intersecting commercial establishment entrances.

The Commonwealth Transportation Commissioner shall permit, at places where commercial establishment entrances are desired to intersect improved highways, suitable connections from such points of intersection over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof that comply with the Commonwealth Transportation Commissioner's access management standards for the location, spacing, and design of entrances, taking into account the operating characteristics and federal functional classification of the highway, so as to provide for the users of such entrances safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways; while minimizing the impact of such ingress and egress on the operation of such highways, provided, however, that any person desiring such an entrance shall:

1. Be required first be required to obtain a permit therefor from the Commonwealth Transportation Commissioner and shall provide;

2. Provide the entrance at his expense;

3. If required by the Commonwealth Transportation Commissioner, provide for the joint use of the desired entrance with adjacent property owners or provide evidence of such efforts; and construct

4. Construct the entrance or have the entrance constructed the same, including such safety structures as are required by the Commonwealth Transportation Commissioner, pursuant to "Minimum Standards of Entrances to State Highways" on file in the central office of the Department of Transportation and in the district and residency offices the Department of Transportation's design standards and "Land Use Permit Manual," the latter of which is filed as part of the Virginia Administrative Code.

All commercial entrances whether or not constructed under this section shall be maintained by the owner of the premises at all times in a manner satisfactory to the Commonwealth Transportation Commissioner.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$5 nor more than \$100 for each offense. Following a conviction and 15 days for correction, each day during which the violation continues shall constitute a separate and distinct offense and be punishable as such. Such person shall be civilly liable to the Commonwealth for actual damage sustained by the Commonwealth by reason of his wrongful act.

§ 33.1-198.1. Comprehensive highway access management standards.

A. Comprehensive highway access management standards are defined as a coordinated set of state standards and guidelines that allow the Commonwealth and its localities to manage access to the systems of state highways according to their federal functional classification or operational characteristics through the control of and improvements to the location, number, spacing, and design of entrances, median openings, turn lanes, street intersections, traffic signals, and interchanges.

B. The General Assembly declares it to be in the public interest that comprehensive highway access management standards be developed and implemented to enhance the operation and safety of the

60 systems of state highways in order to protect the public health, safety, and general welfare while
61 ensuring that private property is entitled to reasonable access to the systems of state highways. The
62 goals of the comprehensive highway access management standards are:

63 1. To reduce traffic congestion and impacts to the level of service of highways, leading to reduced
64 fuel consumption and air pollution;

65 2. To enhance public safety by decreasing traffic crash rates;

66 3. To support economic development in the Commonwealth by promoting the efficient movement of
67 people and goods;

68 4. To reduce the need for new highways and road widening by improving the performance of the
69 existing systems of state highways; and

70 5. To preserve public investment in new highways by maximizing their performance.

71 C. The Commonwealth Transportation Commissioner shall develop and implement comprehensive
72 highway access management standards for managing access to and preserving and improving the
73 efficient operation of the state systems of highways. The comprehensive highway access management
74 standards shall include but not be limited to standards and guidelines for the location, number, spacing,
75 and design of entrances, median openings, turn lanes, street intersections, traffic signals, and
76 interchanges.

77 Nothing in such standards shall preempt the authority of a local government to regulate the type or
78 density of land uses abutting the state system of highways.

79 § 33.1-199. Replacing entrances destroyed by Commissioner.

80 The Commonwealth Transportation Commissioner shall ~~replace any~~ review the existing access to any
81 parcel of land having an entrance destroyed by ~~him~~ in the repair or construction of ~~his~~ the systems of
82 state highways and ~~replace any such entrance and leave any such entrance in the same condition as it~~
83 ~~was prior to such repair or improvement~~ shall provide access to the systems of state highways in a
84 manner that will serve the parcel of land and ensure efficient and safe highway operation.

85 2. That the Commissioner shall solicit and consider public comment in the development of
86 standards required by act and publish such standards no later than December 31, 2007. Such
87 standards shall become effective on or after July 1, 2008.

88 3. That the provisions of the first enactment of this act shall become effective July 1, 2008.

89 4. That, until July 1, 2008, the Commissioner shall not be subject to the requirements of the
90 Administrative Process Act (§ 2.2-4000, et seq.) as may be necessary to carry out the provisions of
91 this act.