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SENATE BILL NO. 830

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation)

(Patron Prior to Substitute—Senator Cuccinelli)

Senate Amendments in [] — February 3, 2009

A BILL to amend and reenact §§ 33.1-373 and 33.1-375.1 of the Code of Virginia, relating to removal of advertising by agents of the Commissioner.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-373 and 33.1-375.1 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-373. Advertising on rocks, poles, etc., within limits of highway; civil penalty.

Any person who in any manner (i) paints, prints, places, puts or affixes any advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, guide-sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any advertisement within the limits of any highway shall may be assessed a civil penalty of \$100. Each occurrence shall may be subject to a separate penalty. All civil penalties collected under this section shall be paid into the Highway Maintenance and Operating Fund. Advertisements placed within the limits of the highway are hereby declared a public and private nuisance and may be forthwith removed, obliterated, or abated by the Commonwealth Transportation Commissioner or his representatives without notice. The Commonwealth Transportation Commissioner may collect the cost of such removal, obliteration, or abatement from the person erecting, painting, printing, placing, putting, affixing or using such advertisement. When no one is observed erecting, painting, printing, placing, putting, or affixing such sign or advertisement, the person, firm or corporation being advertised shall be presumed to have placed the sign or advertisement and shall be punished accordingly. Such presumption, however, shall be rebuttable by competent evidence. In addition, the Commissioner or his representative may seek to enjoin any recurring violator of this section.

The provisions of this section shall not apply to signs or other outdoor advertising regulated under Chapter 7 (§ 33.1-351 et seq.) of this title.

§ 33.1-375.1. Local governing body as agent of Commissioner; penalties.

A. ~~The Commonwealth Transportation Commissioner may enter into agreements with the~~ The local governing body of Fairfax County ~~authorizing any county, city, or town may authorize~~ local law-enforcement agencies or other local governmental entities to act as ~~agents of~~ with the same authority granted by this article to the Commissioner for the purpose of (i) enforcing the provisions of § 33.1-373 and (ii) collecting the penalties and costs provided for in that section. However, no local governing body shall ~~enter into any such agreement make such authorization~~ until it has held a public hearing thereon and submitted a resolution announcing such authorization to the Commissioner.

B. Notwithstanding the provisions of § 33.1-373, one-half of the penalties and costs collected under this section shall be paid to the affected locality, and the remainder shall be remitted to the Commissioner and paid into the Highway Maintenance and Operating Fund.

C. Notwithstanding the foregoing provisions of this section, the following signs and advertising shall not be subject to the ~~agreements provided for~~ provisions in subsection A of this section:

1. Signs and advertising supporting an individual's candidacy for elected public office or other ballot issues, provided this exception shall not include signs and advertising in place more than three days after the election to which they apply.

2. Signs and advertising promoting and/or providing directions to a special event to be held at a specified date stated on the sign or advertising, provided this exception shall not include special event signs in place more than three days after the conclusion of the special event.

3. Other signs and advertising erected for no more than three days.

D. Notwithstanding the foregoing provisions of this section, the Commissioner may enter into agreements with the local governing bodies of localities to which the foregoing provisions of this section do not apply to authorize those governing bodies to act as agents of the Commissioner and the Department in enforcing the provisions of § 33.1-373. The limitations applicable to [~~agreements~~ authorizations] entered into under subsections A through C of this section shall not apply to agreements entered into under this subsection.

ENGROSSED

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