VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 352

An Act to amend and reenact § 33.2-1217 of the Code of Virginia, relating to signs or advertisements.

[H 1523]

Approved March 19, 2018

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-1217 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-1217. Special provisions pertaining to Interstate System, National Highway System, and federal-aid primary highways.

A. Notwithstanding the territorial limitation set out in § 33.2-1202, no sign or advertisement adjacent to any Interstate System, National Highway System, or federal-aid primary highway shall be erected, maintained, or displayed that is visible from the main traveled way within 660 feet of the nearest edge of the right-of-way, except as provided in subsections B and D, and outside of an urban area, no sign or advertisement beyond 660 feet of the nearest edge of the right-of-way of any Interstate System, National Highway System, or federal-aid primary highway that is visible from the main traveled way shall be erected, maintained, or displayed with the purpose of its message being read from the main traveled way, except as set forth in subsection C.

B. The following signs, advertisements, or advertising structures may be erected, maintained, and displayed within 660 feet of the right-of-way of any Interstate System, National Highway System, or federal-aid primary highway:

Class 1: Official signs. Directional and official signs and notices, including signs and notices pertaining to the availability of food, lodging, vehicle service and tourist information, natural wonders, scenic areas, museums, and historic attractions, as authorized or required by law; however, where such signs or notices pertain to facilities or attractions that are barrier free, such signs or notices shall contain the International Symbol of Access. The Board shall determine the type, lighting, size, location, number, and other requirements of signs of this class.

Class 2: On-premises signs. Signs not prohibited by other parts of this article that are consistent with the applicable provisions of this section and that advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located, provided that any such signs that are located adjacent to and within 660 feet of any Interstate System highway and do not lie in commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or in areas where land use as of September 21, 1959, was clearly established by state law as industrial or commercial, shall comply with the following requirements:

1. Not more than one sign advertising the sale or lease of the same property may be erected or maintained in such manner as to be visible to traffic proceeding in any one direction on any one Interstate System highway;

2. Not more than one sign visible to traffic proceeding in any one direction on any one Interstate System highway and advertising activities being conducted upon the real property where the sign is located may be erected or maintained more than 50 feet from the advertised activity~~, and no such sign may be located more than 250 feet from the center of the advertised activity~~; and

3. No sign, except one that is not more than 50 feet from the advertised activity, that displays any trade name that refers to or identifies any service rendered or product sold may be erected or maintained unless the name of the advertised activity is displayed as conspicuously as such trade name.

Class 3: Other signs. Any signs or advertisements that are located within areas adjacent to any Interstate System, National Highway System, or federal-aid primary highway that are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas as determined by the Board from actual land uses. The Board shall determine the size, lighting, and spacing of signs of this class, provided that such determination shall be no more restrictive than valid federal requirements on the same subject.

C. The following signs, advertisements, or advertising structures may be erected, maintained, and displayed beyond 660 feet of the right-of-way of any Interstate System, National Highway System, or federal-aid primary highway outside urban areas:

1. Class 1 and Class 2 signs, advertisements, or advertising structures set forth in subsection B.

2. All other signs, advertisements, or advertising structures erected, maintained, or displayed more than 660 feet from the nearest edge of the right-of-way of an Interstate System, National Highway System, or federal-aid primary highway, unless such sign or advertisement is visible from the main traveled way of such highways and erected, maintained, or displayed with the purpose of its message being read from the main traveled way of such highways.

In determining whether a sign, advertisement, or advertising structure is "erected, maintained, or displayed with the purpose of its message being read," the Commissioner of Highways shall consider, at a minimum, the nature of the business or product advertised thereon, the availability of such business or product to users of the controlled highway, and the visibility of the sign, advertisement, or advertising structure from the main traveled way of the controlled highway. Such visibility may be measured by considering the size or height of the sign, advertisement, or advertising structure; the configuration, size, and height of recognizable emblems, images, and lettering thereon; the angle of the sign, advertisement, or advertising structure to the main traveled way of the controlled highway; the degree to which physical obstructions hinder the view of the sign, advertisement, or advertising structure from the main traveled way of the controlled highway; and the time during which such sign, advertisement, or advertising structure is exposed to view by travelers on the main traveled way of the controlled highway traveling at the maximum and minimum speeds posted.

D. In order to provide information in the specific interest of the traveling public, the Department is authorized to maintain maps, permit informational directories and advertising pamphlets to be made available at rest areas, and establish information centers at rest areas for the purpose of informing the public of places of interest within the Commonwealth and providing such other information as may be considered desirable.

E. Notwithstanding any other provision of law, lawfully erected and maintained nonconforming signs, advertisements, and advertising structures shall not be removed or eliminated by amortization under state law or local ordinances without compensation as described in subsection F.

F. The Commissioner of Highways is authorized to acquire by purchase, gift, or the power of eminent domain and to pay just compensation upon the removal of nonconforming signs, advertisements, or advertising structures lawfully erected and maintained under state law or state regulations, provided that subsequent to November 6, 1978, whenever any local ordinance that is more restrictive than state law requires the removal of such signs, advertisements, or advertising structures, the local governing body shall initiate the removal of such signs, advertisements, or advertising structures with the Commissioner of Highways, who shall have complete authority to administer the removal of such signs, advertisements, or advertising structures. Upon proof of payment presented to the local governing bodies, the local governing bodies shall reimburse the Commissioner of Highways the funds expended that are associated with the removal of such signs, advertisements, or advertising structures required by local ordinances, less any federal funds received for such purposes. Notwithstanding the provisions of this subsection, nothing shall prohibit the local governing bodies from removing signs, advertisements, or advertising structures that are made nonconforming solely by local ordinances so long as those ordinances require the local governing bodies to pay 100 percent of the cost of removing them and just compensation upon their removal.

Such compensation is authorized to be paid only for the taking from the owner of such sign or advertisement of all right, title, leasehold, and interest in such sign or advertisement and the taking from the owner of the real property on which the sign or advertisement is located of the right to erect and maintain such sign or advertisement thereon.

The Commissioner of Highways shall not be required to expend any funds under this section unless and until federal-aid matching funds are made available for this purpose.