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HOUSE BILL NO. 1456

Offered January 22, 1996

A BILL to amend and reenact § 33.1-351 of the Code of Virginia, relating to outdoor advertising on public highways.

Patron—Cranwell

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 33.1-351 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-351. Policy; definitions.

In order to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within this Commonwealth, to attract tourists and promote the prosperity, economic well-being, and general welfare of the Commonwealth, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly declares it to be the policy of the Commonwealth that the erection and maintenance of outdoor advertising in areas adjacent to the rights-of-way of the highways within the Commonwealth shall be regulated in accordance with the terms of this article and regulations promulgated by the Commonwealth Transportation Board pursuant thereto.

The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context:

"Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign, or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or personal property, business, services, entertainment, or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by any person; the term shall also include any part of an advertisement recognizable as such.

"Advertising structure" means any rigid or semirigid material, with or without any advertisement displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed.

"Business of outdoor advertising" means the erection, use or maintenance of advertising structures or the posting or display of outdoor advertisements by any person who receives profit gained from rentals or any other compensation from any other person for the use or maintenance of such advertising structures or the posting or display of such advertisements, except reasonable compensation for materials and labor used or furnished in the actual erection of advertising structures or the actual posting of advertisements. *The business of outdoor advertising shall not include the leasing or rental of advertisements used to advertise products, services, or entertainment sold or provided on the premises where the advertisement is located.*

"Certification Acceptance Program" means a program which will allow any person, firm, or corporation owning five or more signs, advertisements, or outdoor advertising structures within a municipality to inspect their own signs, advertisements, or outdoor advertising structures two times during each calendar year, with inspections at least four to six months apart, and certify to the Commonwealth Transportation Commissioner that the inspections have been performed and that their outdoor advertising structures meet all applicable laws, rules, and regulations in lieu of paying an annual permit fee as required in §§ 33.1-360, 33.1-361, and 33.1-362. The Commonwealth Transportation Commissioner may, after a hearing, de-certify any person, firm, or corporation that fails to perform the required inspections annually or whose sign, advertisement, or outdoor advertising structures are found in violation of any federal, state or local law, rule, or regulation and shall collect all permit fees for the year the de-certification occurs and all subsequent years if the Commissioner finds that the violation has been committed.

"Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this Commonwealth.

"Municipalities" means cities and incorporated towns.

"Person" includes an individual, partnership, association or corporation.

"Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

"Real property" includes any property physically attached or annexed to real property in any manner whatsoever.

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60 "Town" means an incorporated town.
61 "Historic place, museum or shrine" includes only places that are maintained wholly at public expense
62 or by a nonprofit organization.
63 "Information center" means an area or site established and maintained at rest areas for the purpose of
64 informing the public of places of interest within the Commonwealth and providing such other
65 information as the Commonwealth may consider desirable.
66 "Rest area" means an area or site established and maintained within or adjacent to the right-of-way
67 or under public supervision or control, for the convenience of the traveling public.
68 "Centerline of the highway" means a line equidistant from the edges of the median separating the
69 main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided
70 highway.
71 "Interchange" means a grade separated intersection with one or more turning roadways for travel
72 between intersection legs, or an intersection at grade, where two or more highways join or cross.
73 "Legible" means capable of being read without visual aid by a person of normal visual acuity.
74 "Maintain" means to allow to exist.
75 "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the
76 case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite
77 directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways,
78 or parking areas.
79 "National highway system" means the federal-aid highway system described in subsection (b) of
80 § 103 of Title 23, United States Code, and regulations adopted pursuant thereto. For the purpose of this
81 article, outdoor advertising controls on the national highway system shall be implemented as those
82 highways are designated and approved by congressional action and such designation and approval shall
83 be kept on file in the central office of the Department of Transportation and placed in the minutes of the
84 Commonwealth Transportation Board by the Commonwealth Transportation Commissioner. Prior to
85 congressional approval, highways classified as National System of Interstate and Defense Highways,
86 Dwight D. Eisenhower National System of Interstate and Defense Highways, Interstate System, or
87 federal-aid primary as defined herein shall be considered as the national highway system.
88 "National System of Interstate and Defense Highways," "Dwight D. Eisenhower National System of
89 Interstate and Defense Highways," and "Interstate System" means the system presently defined in
90 subsection (e) of § 103 of Title 23, United States Code.
91 "Federal-aid primary highway" means any highway within that portion of the State Highway System
92 as established and maintained under Article 2 (§ 33.1-25 et seq.), Chapter 1, Title 33.1, including
93 extensions of such system within municipalities, which has been approved by the Secretary of
94 Transportation pursuant to subsection (b) of § 103 of Title 23, United States Code, as that system
95 existed on June 1, 1991.
96 "Scenic area" means any public park, area of particular scenic beauty or historical significance
97 designated as a scenic area by the Commonwealth Transportation Board.
98 "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster,
99 billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the
100 advertising or informative contents of which is visible from any highway.
101 "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or
102 thing used to identify particular products or services.
103 "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of
104 shoulders.
105 "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of
106 an interchange.
107 "Visible" means capable of being seen (whether or not legible) without visual aid by a person of
108 normal visual acuity.
109 "Distance from edge of a right-of-way" shall be the horizontal distance measured along a line normal
110 or perpendicular to the centerline of the highway.
111 "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than
112 one state, that part of the "urbanized area" within the Commonwealth, or an urban place.
113 "Urban place" means an area so designated by the United States Bureau of the Census having a
114 population of 5,000 or more and not within any urbanized area, within boundaries fixed by the
115 Commonwealth Transportation Commissioner, in his discretion, in cooperation with the governing bodies
116 of the several counties, towns or cities affected and the appropriate federal authority. Such boundaries
117 shall, as a minimum, encompass the entire urban place designated by the United States Bureau of the
118 Census.
119 "Urbanized area" means an area so designated by the United States Bureau of the Census, within
120 boundaries fixed by the Commonwealth Transportation Commissioner, in his discretion, in cooperation
121 with the governing bodies of the several counties, towns or cities affected and the appropriate federal

122 authority. Such boundaries shall, as a minimum, encompass the entire urbanized area within a state as
123 designated by the United States Bureau of the Census.

124 A "nonconforming sign," "nonconforming advertisement," or "nonconforming advertising structure" is
125 one which was lawfully erected adjacent to any highway in the interstate, national highway system, or
126 federal-aid primary system as that system existed on June 1, 1991, but which does not comply with the
127 provisions of state law, state regulations, or ordinances adopted by local governing bodies passed at a
128 later date or which later fails to comply with state law, state regulations, or ordinances adopted by local
129 governing bodies due to changed conditions.

130 "Virginia byway" and "scenic highway" mean those highways designated by the Commonwealth
131 Transportation Board pursuant to Article 5 (§ 33.1-62 et seq.) of Chapter 1 of this title. For the purposes
132 of the article, a Virginia byway shall mean a scenic byway as referenced in Title 23, United States
133 Code, § 131 (s).