

1996 SESSION

LEGISLATION NOT PREPARED BY DLS
INTRODUCED

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SENATE BILL NO. 463

Offered January 22, 1996

A BILL to amend Chapter 3.1 of Title 3.1 of the Code of Virginia by repealing §§ 3.1-18.1 and 3.1-18.3, by adding a new section, § 3.1-18.1:1, and by amending and reenacting § 3.1-18.2, relating to Administrator of Consumer Affairs.

Patron—Williams

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That Chapter 3.1 of Title 3.1 of the Code of Virginia is amended and reenacted as follows:

Chapter 3.1

Administrator of Consumer Affairs

~~§ 3.1-18.1. Position created; appointment and term.~~

There is hereby created in the Department of Agriculture and Consumer Services the position of Administrator of Consumer Affairs. The Administrator shall be appointed by, and shall serve at the pleasure of, the Commissioner of Agriculture and Consumer Services.

~~§ 3.1-18.1:1 Definition.~~

As used in this chapter, the term "Consumer Affairs Official" means any of the following, by whatever term denominated:

(i) The Administrator of Consumer Affairs within the Department of Agriculture and Consumer Services;

(ii) The Division of Consumer Affairs (including the "State Division of Consumer Affairs," the "Virginia Office of Consumer Affairs," and the "State Office of Consumer Affairs") within the Department of Agriculture and Consumer Services;

(iii) The Commissioner of Agriculture and Consumer Services (including the "Commissioner of the Department of Agriculture and Consumer Services" and "Commissioner of the Virginia Department of Agriculture and Consumer Services");

(iv) The Department of Agriculture and Consumer Services (including the Virginia Department of Agriculture and Consumer Services);

(v) The Board of Agriculture and Consumer Services; or

(vi) Any of their employees, representatives, agents, or designees.

~~§ 3.1-18.2. Powers and duties.~~

A. ~~The Administrator of Consumer Affairs~~ In addition to other duties, the Department of Professional and Occupational Regulation shall have ~~only such~~ the powers as ~~may be~~ necessary to perform the following duties:

1. Promote consumer education in cooperation with the Department of Education and inform the public of policies, decisions and legislation affecting consumers.

2. Serve as a central coordinating agency and clearinghouse for receiving and investigating complaints by Virginia consumers of illegal, fraudulent, deceptive or dangerous practices and referring appropriate complaints to the federal, state and local departments or agencies charged with enforcement of consumer laws.

3. Maintain records of consumer complaints and their eventual disposition, which records shall be open for public inspection, provided that information disclosing the business interests of any person, trade secrets, or the names of customers shall be held confidential except to the extent that disclosure of such matters may be necessary for the enforcement of laws.

4. Enter into agreements or accept commissions from federal agencies.

5. Exercise such powers and perform such duties as requested by the Commissioner of the Department of Agriculture and Consumer Services, or his designee, under the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

B. If the department or agency to which a complaint is referred pursuant to subdivision A 2 determines that the matter cannot be settled at an administrative level, the complaint together with all supporting evidence may be transmitted to the appropriate enforcement officer for such legal action as may be necessary.

C. The responsibility of the ~~Administrator~~ Department in these matters shall not be limited to those areas of peculiar interest to the Department of ~~Agriculture and Consumer Services~~ Professional and Occupational Regulation, but shall embrace the consumer programs and responsibilities of all the departments and agencies of the Commonwealth.

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60 D. Any and all responsibility assigned to any Consumer Affairs Official for the administration and
61 enforcement of (and any and all authority granted to any Consumer Affairs Official pursuant to) the
62 laws and regulations specified in subdivisions 1 through 25 of this subsection (including but not limited
63 to the authority to adopt, amend, and repeal regulations) are hereby transferred to the Department of
64 Professional and Occupational Regulation.

65 1. Chapter 3.1 of Title 3.1, Administrator of Consumer Affairs (§§ 3.1-18.1 et seq. of the Code);

66 2. Article 3 of Chapter 27.4 of Title 3.1, Sale of Dogs and Cats by Dealers (§§ 3.1-796.78 et seq. of
67 the Code);

68 3. § 15.1-23.2 of the Code; Local offices of consumer affairs; establishment; powers and duties;

69 4. § 32.1-80 of the Code; Virginia Voluntary Formulary Council continued as Virginia Voluntary
70 Formulary Board; members; officers; quorum; meetings; record of proceedings;

71 5. §§ 46.2-1231 (Ticketing, removal, or immobilization of trespassing vehicles by owner or operator
72 of parking or other lot or building; charges) and § 46.2-1233.1 (Limitation on charges for towing and
73 storage of certain vehicles) of the Code;

74 6. Chapter 15 of Title 54.1, Hearing Aid Specialists (§§ 54.1-1500 et seq. of the Code);

75 7. Article 3.2 of Chapter 3 of Title 57, Perpetual Care Funds, Preneed Burial Contracts and
76 Consumer Protections (§§ 57-35.11 et seq. of the Code);

77 8. Chapter 5 of Title 57, Solicitation of Contributions (§§ 57-48 et seq. of the Code);

78 9. Chapter 2.1 of Title 59.1, Virginia Home Solicitation Sales Act (§§ 59.1-21.1 et seq. of the Code);

79 10. Chapter 17 of Title 59.1 Virginia Consumer Protection Act (§§ 59.1-196 et seq. of the Code);

80 11. Chapter 17.1 of Title 59.1, Automobile Repair Facilities Act (§§ 59.1-207.1 et seq. of the Code);

81 12. Chapter 17.3 of Title 59.1, Motor Vehicle Warranty Enforcement Act (§§ 59.1-207.9 et seq. of
82 the Code);

83 13. Chapter 17.4 of Title 59.1, Virginia Lease-Purchase Agreement Act (§§ 59.1-207.17 et seq. of the
84 Code);

85 14. Chapter 17.5 of Title 59.1, Collision Damage Waiver Act (§§ 59.1-207.28 et seq. of the Code);

86 15. Chapter 17.6 of Title 59.1, Virginia Motor Vehicle Manufacturers' Warranty Adjustment Act
87 (§§ 59.1-207.34 et seq. of the Code);

88 16. Chapter 17.7 of Title 59.1, Comparison Price Advertising Act (§§ 59.1-207. 40 et seq. of the
89 Code);

90 17. Chapter 24 of Title 59.1, Virginia Health Spa Act (§§ 59.1-294 et seq. of the Code);

91 18. Chapter 25 of Title 59.1, Virginia Membership Camping Act (§§ 59.1-311 et seq. of the Code);

92 19. Chapter 25.1 of Title 59.1, Virginia Credit Services Businesses Act (§§ 59.1-335 et seq. of the
93 Code);

94 20. Chapter 31 of Title 59.1, Prizes and Gifts Act (§§ 59.1-415 et seq. of the Code);

95 21. Chapter 32 of Title 59.1, Virginia Public Telephone Information Act (§§ 59.1-424 et seq. of the
96 Code);

97 22. Chapter 33 of Title 59.1, Pay-Per-Call Services Act (§§ 59.1-429 et seq. of the Code);

98 23. Chapter 34 of Title 59.1, Extended Service Contract Act (§§ 59.1-435 et seq. of the Code);

99 24. Chapter 36 of Title 59.1, The Virginia Travel Club (§§ 59.1-445 et seq. of the Code);

100 25. VR115-06-01. Rules Governing the Solicitation of Contributions.

101 E. With respect to any law or regulation specified in subsection D of the section, the Department of
102 Professional and Occupational Regulation shall;

103 1. Carry out the duties, authorities, and obligations, and have the powers heretofore assigned to any
104 Consumer Affairs Official;

105 2. Receive on behalf of the Commonwealth all monies, fees, and funds heretofore owed or to be paid
106 to any Consumer Affairs Official on behalf of the Commonwealth;

107 3. Be owed any duty, obligation, or compliance with any requirement or imposition heretofore owed
108 to any Consumer Affairs Official;

109 4. Receive any complaint, statement, application, filing, registration, notice, document,
110 documentation, report, bond, cash, letter of credit, service of process, or any other matter that
111 heretofore would be provided to or received by any Consumer affairs official;

112 5. Have the authority to enter into any agreement or contract that any Consumer Affairs Official
113 heretofore had the authority to enter into; and succeed every Consumer Affairs Official as party to any
114 and all agreements and contracts that the Consumer Affairs Official has entered into with respect to or
115 pursuant to any law or regulation specified in subsection D of this section;

116 6. Succeed every Consumer Affairs Official in any and all case-decision making governed by the
117 Administrative Process Act (§§ 9-6.14:1 et seq. of the Code); and

118 7. Succeed every Consumer Affairs Official in any and all litigation in which the Consumer Affairs
119 Official is a litigant.

120 F. With respect to any law or regulation specified in subsection D of this section;

121 1. Any condition or obligation that heretofore was satisfied by an action rendered to any Consumer

Affairs Official shall now and hereafter be satisfied through an action rendered to the Department of Professional and Occupational Regulation;

2. Any regulated person who heretofore had discretion with respect to an action that may be rendered to a Consumer Affairs Official shall now and hereafter have that same discretion with respect to the Department of Professional and Occupational Regulation;

3. Any disclosure that heretofore was required or authorized to be made identifying a Consumer Affairs Official shall now and hereafter identify the Department of Professional and Occupational Regulation;

4. Any disclosure that heretofore was required or authorized to be made identifying specific information about a Consumer Affairs Official shall now and hereafter disclose the corresponding information about the Department of Professional and Occupational Regulation;

5. Any appointment that heretofore was authorized of any Consumer Affairs Official for receipt of service of process or for any other purpose specified by any law or any regulation specified in subsection D of this section shall now and hereafter be an authorized appointment of the Department of Professional and Occupational Regulation; and

6. Any fund that heretofore was required or authorized by law to be maintained by, on behalf of, or to the credit of any Consumer Affairs Official for the administration or enforcement of any law or regulation specified in subsection D of this section shall now and hereafter be maintained by, on behalf of, or to the credit of the Department of Professional and Occupational Regulation for the administration or enforcement of that law or regulation specified in subsection D of this section.

G. For any matter not otherwise governed by this chapter, the Department of Professional and Occupational Regulation shall succeed every Consumer Affairs Official in every law, regulation, case, function, or other matter for which the Administrator of Consumer Affairs (by whatever term denominated) heretofore had responsibility or authority. No responsibility or authority shall reside now or hereafter in any Consumer Affairs Official for any law, regulation, case, function or other matter for which the Administrator of Consumer Affairs (by whatever term denominated) heretofore had responsibility or authority.

H. Nothing in subdivision 4 of subsection D of this section or in any other provision of this chapter shall confer upon the Department of Professional and Occupational Regulation the power to vote in the meetings or other proceedings of the Virginia Voluntary Formulary Board;

I. Unless there is an express intent to the contrary, any and all enactments in 1996 conferring authority upon the Administrator of Consumer Affairs (by whatever term denominated) shall be deemed to confer that authority instead upon the Department of Professional and Occupational Regulation.

J. All amendments to the law that are necessary to transfer to the Department of Professional and Occupational Regulation responsibility and authority pursuant to subsection D of this section, including, but not limited to any purpose specified in subsections E, F, G, H, and I of this section are hereby made, *mutatis mutandis*.

~~§ 3.1-18.3. Payment of expenses of office.~~

The expenses of the office of the Administrator of Consumer Affairs shall be paid from funds provided for that purpose by law; provided, however, that in addition thereto the Commissioner may supplement such funds from appropriations made to the Department of Agriculture and Consumer Services for discretionary purposes.