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SENATE BILL NO. 6

Offered January 10, 1996

Prefiled December 14, 1995

A BILL to amend and reenact § 33.1-370 of the Code of Virginia, relating to outdoor advertising along certain highways.

Patrons—Miller, K.G.; Delegates: Guest and Weatherholtz

Referred to the Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-370 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-370. Special provisions pertaining to interstate, national highway system, and federal-aid primary highways.

A. Notwithstanding the territorial limitation set out in § 33.1-353, no sign or advertisement adjacent to any interstate, national highway system, or federal-aid primary highway shall be erected, maintained or displayed which 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 of this section, 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, national highway system, or federal-aid primary highway which 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, national highway system, or federal-aid primary highway:

Class 1 - Official signs. - Directional and official signs and notices, which signs and notices shall include, but not be limited to, 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 which are barrier free, such signs or notices shall contain the International Barrier Free Symbol. The Commonwealth Transportation 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 which are consistent with the applicable provisions of this section and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located; ~~provided, that~~ *however*, any such signs, which are located adjacent to and within 660 feet of any interstate 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 (a) advertising the sale or lease of the same property or (b) *advertising activities being conducted upon the real property where the sign is located* may be erected or maintained in such manner as to be visible to traffic proceeding in any one direction on any one interstate highway; *and*

2. ~~Not more than one sign, visible to traffic proceeding in any one direction on any one interstate highway and advertising activities being conducted upon the real property where the sign is located, may be erected or maintained more than fifty 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 which is not more than fifty feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, shall 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 which are located within areas adjacent to any interstate, national highway system, or federal-aid primary highway which are zoned industrial or commercial under authority of state law, or in unzoned commercial or industrial areas as determined by the Commonwealth Transportation Board from actual land uses. The Commonwealth Transportation Board shall determine the size, lighting and spacing of signs of this class; ~~provided that~~ *however*, 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

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60 displayed beyond 660 feet of the right-of-way of any interstate, national highway system, or federal-aid
61 primary highway outside of urban areas.

62 1. Class 1 and Class 2 signs, advertisements or advertising structures set forth in subsection B of this
63 section.

64 2. All other signs, advertisements or advertising structures erected, maintained or displayed more than
65 660 feet from the nearest edge of the right-of-way of an interstate, national highway system, or
66 federal-aid primary highway; unless said sign or advertisement is visible from the main traveled way of
67 said highways and erected, maintained or displayed with the purpose of its message being read from the
68 main traveled way of said highways.

69 In determining whether a sign, advertisement or advertising structure is "erected, maintained or
70 displayed with the purpose of its being read" the Commissioner is not limited to, but will consider, the
71 nature of the business or product advertised thereon, the availability of such business or product to users
72 of the controlled highway, the visibility of the sign, advertisement or advertising structure from the main
73 traveled way of the controlled highway (such visibility may be measured by considering the size or
74 height of the sign, advertisement or advertising structure; the configuration, size, and height of
75 recognizable emblems, images, and lettering thereon; the angle of the sign, advertisement or advertising
76 structure to the main traveled way of the controlled highway; the degree to which physical obstructions
77 hinder the view of the sign, advertisement or advertising structure from the main traveled way of the
78 controlled highway; and the time which such sign, advertisement or advertising structure is exposed to
79 view by travelers on the main traveled way of the controlled highway traveling at the maximum and
80 minimum speeds posted).

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

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

89 F. The Commonwealth Transportation Commissioner is authorized to acquire by purchase, gift or the
90 power of eminent domain and to pay just compensation upon the removal of nonconforming signs,
91 advertisements or advertising structures lawfully erected and maintained under state law or state
92 regulations. ~~Provided, however~~ However, subsequent to November 6, 1978, whenever any local ordinance
93 which is more restrictive than state law requires the removal of such signs, advertisements, or
94 advertising structures, the local governing body shall initiate the removal of such signs, advertisements,
95 or advertising structures with the Commissioner, who shall have complete authority to administer the
96 removal of such signs, advertisements, or advertising structures. Upon proof of payment presented to the
97 local governing bodies, the local governing bodies shall reimburse the Commissioner the funds expended
98 which are associated with the removal of such signs, advertisements, or advertising structures required
99 by local ordinances, less any federal funds received for such purposes. Notwithstanding the above,
100 nothing shall prohibit the local governing bodies from removing signs, advertisements, or advertising
101 structures which are made nonconforming solely by local ordinances so long as those ordinances require
102 the local governing bodies to pay 100 percent of the cost of removing them and just compensation upon
103 their removal.

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

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