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SENATE BILL NO. 87

Offered January 11, 2006

Prefiled January 6, 2006

A BILL to amend and reenact § 33.1-371.1 of the Code of Virginia, relating to permits for selective pruning of certain vegetation.

Patron—Watkins

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-371.1 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-371.1. Selective pruning permits; penalty.

Notwithstanding the provisions of § 33.1-353 or any other provision of law:

A. The Commonwealth Transportation Commissioner shall by permit authorize the selective pruning, within highway rights-of-way, *along any highway of the Commonwealth as defined in § 33.1-351, including within corporate limits of municipalities*, of vegetation that obstructs motorists' view of signs displayed on outdoor advertising structures legally erected and properly maintained along the highways. Such permits shall be *for a period of three years from the date of issuance and* subject to such conditions as the Commissioner deems appropriate for the enhancement of highway safety and beautification, including but not limited to the following:

1. All work performed under the permit shall be (i) subject to the direction of the Commissioner or his designee, (ii) supervised on-site by a certified arborist approved by the Commissioner, (iii) completed to the satisfaction of the Department's Environmental Manager or his designee, and (iv) performed solely at the expense of the permittee.

2. All pruning shall be performed in a manner that (i) creates a picture frame effect around the sign and (ii) beautifies the area surrounding the advertising structure. All cutting shall be limited to vegetation with trunk base diameters of less than six inches. Pruning cuts of vegetation with diameters greater than four inches and clear cutting shall not be authorized and shall be strictly prohibited.

3. Any diseased or unsightly vegetation or any vegetation that endangers the health or retards the growth of desirable vegetation may be removed at the discretion of the certified arborist supervising the work. Any such removed vegetation shall be replaced at the permittee's expense with desirable vegetation.

B. The requirements of this section shall not apply to the owner or authorized agent of the owner of any sign, advertisement, or advertising structure exempted from the provisions of this article by § 33.1-355.

C. The Commissioner shall promulgate such regulations as he deems necessary or desirable to carry out the provisions of this section. Such regulations shall include but not necessarily be limited to the following requirements:

1. Every application for a permit submitted under this section shall be accompanied by photographs of the affected site and a detailed description of work proposed to be performed.

2. A fee of ~~\$400~~ \$500 shall accompany every application. All such fees shall be paid by the Commissioner into the state treasury, allocated to the Commonwealth Transportation Board.

3. Every applicant shall post a bond payable to the Commonwealth, with surety approved by the Commissioner and in a form approved by the Attorney General, in the sum of \$2,500, conditioned on the permittee's fulfillment of all requirements of the permit.

4. No permit shall be issued under this section in order to create a new site for an outdoor advertising structure.

D. *The Commissioner may include a requirement that, as a condition of the issuance of a vegetation control permit for selective pruning, the applicant may pay reasonable costs for the relocation or replacement of any plant materials that are part of a local beautification project in lieu of the selective pruning of such plant materials. If the Commissioner includes such a condition, the locality shall not replant plant materials that obstruct motorists' view of signs displayed on outdoor advertising structures.*

E. Any person found by a court of competent jurisdiction to have violated any provision of this section, any regulation adopted pursuant to this section, or any permit issued under this section, shall, in addition to the penalties provided in § 33.1-377, be prohibited by the court from applying for any other permit under this section for a period of not more than five years.