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HOUSE BILL NO. 34

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 22, 2012)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact §§ 33.1-373 and 33.1-375.1 of the Code of Virginia, relating to advertising signs within highway rights of way.

Be it enacted by the General Assembly of Virginia:**1. That §§ 33.1-373 and 33.1-375.1 of the Code of Virginia are amended and reenacted as follows:**

§ 33.1-373. Advertising on rocks, poles, etc., within limits of highway; civil penalty.

Any person who in any manner (i) paints, prints, places, puts or affixes any advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, guide-sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any advertisement within the limits of any highway shall be assessed a civil penalty of \$100. Each occurrence shall be subject to a separate penalty. All civil penalties collected under this section shall be paid into the Highway Maintenance and Operating Fund. Advertisements placed within the limits of the highway are hereby declared a public and private nuisance and may be forthwith removed, obliterated, or abated by the Commissioner of Highways or his representatives without notice. The Commissioner of Highways may collect the cost of such removal, obliteration, or abatement from the person erecting, painting, printing, placing, putting, affixing or using such advertisement. When no one is observed erecting, painting, printing, placing, putting, or affixing such sign or advertisement, the person, firm or corporation being advertised shall be presumed to have placed the sign or advertisement and shall be punished accordingly. Such presumption, however, shall be rebuttable by competent evidence. In addition, the Commissioner or his representative may seek to enjoin any recurring violator of this section. *The Commissioner of Highways may enter into agreements with any local governing body authorizing local law-enforcement agencies or other local governmental entities to act as agents of the Commissioner for the purpose of (i) enforcing the provisions of this section and (ii) collecting the penalties and costs provided for in this section.*

The provisions of this section shall not apply to signs or other outdoor advertising regulated under Chapter 7 (§ 33.1-351 et seq.) of this title.

§ 33.1-375.1. Commissioner may enter into certain agreements; penalties.

A. The Commissioner of Highways may enter into agreements with the local governing body of Fairfax County authorizing local law-enforcement agencies or other local governmental entities to act as agents of the Commissioner for the purpose of (i) enforcing the provisions of § 33.1-373 and (ii) collecting the penalties and costs provided for in that section. However, no local governing body shall enter into any such agreement until it has held a public hearing thereon.

B. Notwithstanding the provisions of § 33.1-373, the penalties and costs collected under this section shall be paid to the affected locality.

C. Notwithstanding the foregoing provisions of this section, the following signs and advertising promoting and/or providing directions to a special event erected from Saturday through the following Monday shall not be subject to the agreements an agreement provided for in subsection A:

1. Signs and advertising supporting an individual's candidacy for elected public office or other ballot issues, provided this exception shall not include signs and advertising in place more than three days after the election to which they apply.

2. Signs and advertising promoting and/or providing directions to a special event to be held at a specified date stated on the sign or advertising, provided this exception shall not include special event signs in place more than three days after the conclusion of the special event.

3. Other signs and advertising erected from Saturday through the following Monday.

D. Notwithstanding the foregoing provisions of this section, the Commissioner may enter into agreements with the local governing bodies of localities to which the foregoing provisions of this section do not apply to authorize those governing bodies to act as agents of the Commissioner and the Department in enforcing the provisions of § 33.1-373. The limitations applicable to agreements entered into under subsections A through C shall not apply to agreements entered into under this subsection.

E. If a county acts as an agent of the Commissioner under this section, the county shall require each of its employees and any volunteers who are authorized to act on behalf of the county to comply with the provisions of this section and any other applicable law. If a lawfully placed sign is confiscated by an employee or volunteer authorized to act for the county in violation of the authority granted under this section, the sign owner shall have the right to reclaim the sign within five business days of the date of such confiscation.