

Session 2008 Highlights

VIRGINIA DIVISION OF LEGISLATIVE SERVICES

Alcoholic Beverages

Passed

Alcohol sales. The measure allows ABC stores to be open on Sunday in any city with a population of 100,000 or more. Since 2004, ABC stores may be open, at the discretion of the ABC Board, in the counties of Fairfax, Arlington, Loudoun, and Prince William, and in the cities of Alexandria, Fairfax, Manassas, Manassas Park, Norfolk, and Virginia Beach. The cities of Portsmouth, Hampton, Newport News, Richmond, and Chesapeake are added.

Alcoholic beverage control.

- The measure requires the ABC Board to adopt regulations allowing on-premises licensees to reduce the length of any suspension or reduce the amount of any civil penalty if the licensee can demonstrate that it provided certified alcohol server training to its employees; authorizes on-premises restaurant licensees to use food products containing more than 0.5% if sold to persons 21 years of age or older; and prohibits licensees from holding "happy hour" except during hours permitted by regulation.
- The measure removes the authority of the Alcoholic Beverage Control Board to revoke or suspend a license if an establishment has allowed noisy, lewd, or disorderly conduct upon the licensed premises and clarifies that the Board may revoke or suspend a license if a licensee allows obscene literature, pictures or materials upon the licensed premises.
- The measure requires licensees' gross receipts from the sale of food and nonalcoholic beverages served on the premises to amount

to at least an average of \$4,000 per month annually.

Animals

Passed

Animal fighting. The measure provides that engaging in the fighting of any animals is a Class 1 misdemeanor, while dog fighting remains a Class 6 felony. Possessing any materials intended to enhance the ability of animals to fight, attending an exhibition of animal fighting, or permitting a minor to become involved in animal fighting is a Class 6 felony.

Commercial dog breeding. The measure regulates animal breeding, including requiring a business license, cooperating with inspections by animal control officers, creating a fire emergency plan, maintaining records, and keeping no more than 50 adult dogs at one time.

Business and Employment

Passed

Payday loans. The measure provides that payday lenders may charge a fee of not more than 20% of the amount of the loan proceeds, plus a \$5 verification fee and interest at an annual rate not to exceed 36%. A payday lender is prohibited from making a payday loan if the loan would cause the borrower to have more than one payday loan outstanding at the same time and requires a cooling off period if a borrower has more than five payday loans within 180 days.

The 2008 Session Highlights summarizes significant legislation considered by the 2008 General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview of the General Assembly Session covers legislative actions through sine die on Thursday, March 13, 2008.

Unemployment compensation. The measure increases the wages that an employee must have earned in the two highest earnings quarters of his base period in order to be eligible for unemployment benefits from \$2,700 to \$3,000 for claims effective on or after July 5, 2009, and increases the maximum weekly unemployment compensation benefit from \$363 to \$378 for claims effective on or after July 6, 2008.

Natural gas utilities. The measure authorizes any natural gas utility to file a conservation and ratemaking efficiency plan under which the utility's authorized profit is decoupled from the volume of gas sold to consumers.

Fire-resistant cigarettes. The measure prohibits the manufacture or sale of cigarettes that do not extinguish themselves when the smoker ceases puffing.

Home ownership protection. The measure authorizes the State Corporation Commission to impose a fine not exceeding \$2,500 upon a mortgage lender or mortgage broker for violating any law or regulation applicable to the conduct of the lender's or broker's business. The measure also requires criminal background checks for mortgage lenders and brokers.

Freezing access to credit reports. The measure authorizes any consumer to freeze access to his credit report and prohibits a consumer reporting agency from releasing the credit report, or any information in it, without the consumer's express authorization.

Failed

Business assistance. The measure abolishes the Department of Business Assistance and transfers its duties to the Virginia Economic Development Partnership.

Employment discrimination. The measure prohibits employers from discharging or taking other employment-related action against an employee for failure or refusal to use English at work. Currently, employers with more than five but less than 15 employees are prohibited from discharging an employee on the basis of national origin.

Greenhouse gas emissions reporting. The measure requires that the State Air Pollution Control Board adopt regulations requiring the reporting of greenhouse gas emissions from stationary sources.

Clean energy future. The measure requires that by July 1, 2020, 20% of the electric energy

sold by each supplier to retail customers in Virginia be generated from renewable energy sources.

Constitutional Amendments

Failed

Property tax relief. The proposed constitutional amendment would pave the way for localities to provide tax relief for up to 20% of the value of owner-occupied homesteads.

Carried Over

Redistricting commissions. A variety of proposals would create independent commissions that would draw new congressional and General Assembly election district lines after each decennial census and remove responsibility for redistricting from the General Assembly.

Courts and Criminal Justice

Passed

Repeal of abuser fees for certain drivers. The measure repeals § 46.2-206.1, which provides for the imposition of civil remedial fees on certain drivers and provides for the Comptroller to issue a refund to persons who have already paid fees ordered to be paid by a court. It directs the clerk of the court that ordered the fees and DMV to credit the accounts of persons who still owe the fees so as to indicate that they have been paid and are no longer outstanding. DMV is also directed to reinstate the driver's license of any person whose license was suspended solely for failure to pay civil remedial fees.

Ignition interlock for DUI offenses. The measure provides that the court must order ignition interlock whenever the defendant violates a condition of his restricted license. Under current law, ignition interlock may be ordered by the court for a first DUI offense and must be ordered for a second and subsequent offense or if the defendant's blood alcohol content is .15 or higher.

Firearms purchase and mental health treatment. The measure clarifies that orders for both involuntary inpatient and outpatient mental health treatment must be forwarded by the court to the Central Criminal Records Exchange, and that persons ordered to involuntary inpatient or outpatient treatment are prohibited from purchasing, possessing, or transporting a firearm.

Virginia Military Parents Equal Protection Act. The measure creates the Virginia Military Parents Equal Protection Act which limits a court's ability to permanently modify orders regarding the custody or visitation of a child of a parent deployed in military service.

Animal fighting. See Animals.

No bail for illegal aliens. The measure provides the presumption by judicial officers of no bail for illegal aliens charged with certain crimes.

Mentally ill defendants. The measure establishes a new standard for hospitalizing mentally ill criminal defendants.

Involuntary commitment. The measure changes the criteria for emergency custody orders, temporary detention orders, and involuntary commitment proceedings, allowing such orders or proceedings where it is found that the person may cause serious physical harm to himself or others or may suffer serious harm due to his inability to protect himself or provide for his basic needs.

Admissibility of mental health records in child custody cases. The measure repeals the current law that provides that in child custody or visitation cases, the mental health records concerning a parent shall be privileged and confidential.

Failed

Parole of prisoners. The measure would provide that a prisoner whose parole is revoked on a technical violation is not required to serve the minimum six months.

Triggerman rule (Vetoed by the Governor). The measure redefines the "triggerman rule," which currently provides that only the actual perpetrator of a capital murder is eligible for the death penalty and that accessories and principals in the second degree can be punished only as if guilty of first degree murder.

Carried Over

Firearms background check. The measure adds a definition of "firearms show vendor" and requires that a criminal history record information check be performed on the prospective transferee before the vendor may transfer firearms at a gun show. (Referred to Crime Commission)

Education

Passed

Textbook purchasing contracts in public schools. The measure permits local school

boards to enter into contracts with publishers for the purchase of textbooks, including the purchase of print and electronic media and provides that if materials such as workbooks, writing books, and drawing books are sold to students, the local school board must provide the materials at a reduced price, or free of charge, to students who are unable to afford them.

Parental notification of mental health treatment. The measure requires the governing board of any public institution of higher education to establish policies and procedures requiring the notification of a parent of a dependent student when the student receives mental health treatment at the institution's student health or counseling center, if it is determined that there is a substantial likelihood that the student will, in the near future, cause serious physical harm to himself or others.

Institutions of higher education and operational authority. The measure provides operational authority for public institutions of higher education in the areas of information technology, procurement, and capital outlay under the Restructuring Act of 2005.

Management agreement with VCU. The measure provides a management agreement between the Commonwealth and Virginia Commonwealth University under the Restructured Higher Education Financial and Administrative Operations Act.

Failed

Participation in interscholastic sports by nonpublic school students. The measure directs a nonprofit corporation founded in Virginia in 1913 to organize and govern interscholastic activities in the public high schools and allows any nonpublic school student, who is eligible for free tuition in a Virginia public school, to participate in interscholastic sports.

Public school calendar. The measure would make local school boards responsible for setting the school calendar and determining the opening of the school year and eliminates the post-Labor Day opening requirement.

Illegal aliens' admission to VA colleges. The measure provides that an alien who is unlawfully present in the United States shall not be eligible for admission to any public institution of higher education in the Commonwealth.

Carried Over

Baseball bats used in interscholastic sports. The measure would require any nonprofit corporation founded in Virginia in 1913 that

currently organizes and governs interscholastic activities among the public high schools to develop, implement, and enforce rules requiring the exclusive use of wood or wood composite baseball bats in interscholastic baseball or softball activities.

Elections

Passed

Campaign finance. The measure requires committees that receive contributions designated by the contributor for a specific candidate to give that candidate information that will enable him to report in his campaign finance filings the name and information that will identify the person who made the designated contribution. This change affects entities such as Red Storm and PAC Blue that solicit contributions through the Internet and funnel the proceeds to designated candidates.

Recounts. The measure provides that optical scan ballots will be rerun through tabulators in recount proceedings. Recent law has provided that the report produced by the tabulator in an election will be accepted in a recount proceeding unless the report is unclear or the recount court requests the ballots to be rerun.

Failed

Bipartisan redistricting commission. There were several proposals to establish an independent commission that would produce redistricting proposals for new congressional and General Assembly districts after each decennial census. The commission's proposed plans would then be submitted to the General Assembly which could accept, reject, or amend the plans. The General Assembly would retain final authority over the redistricting process.

Carried Over

Absentee voting. There were several proposals to broaden access to absentee voting privileges and provide "no excuse" absentee voting procedures.

Emergencies and polling hours. The measure establishes a process to obtain a court order to extend the polling hours in areas affected by an emergency that interferes with the election process or ability of voters to get to the polls.

Environment and Natural Resources

Passed

Dam break inundation zones. The measure provides localities with the authority to address development in dam break inundation zones and directs developers to assist dam owners with required upgrades and requires additional disclosure and notification procedures for dam owners.

Failed

Uranium mining. The measure would establish the Virginia Uranium Mining Commission, as a legislative branch advisory commission to assess the risks and benefits of developing uranium resources in Virginia.

Green Building Act. The measure would require all major facility projects of state agencies to be designed to meet the standards of the U.S. Green Building Council's Leadership in Energy and Environmental Design building rating system or the Green Building Initiative's Green Globes building rating system.

Greenhouse gas emissions reporting. See Business.

Clean energy future. See Business.

Freedom of Information Act (FOIA)

Passed

- **Exemptions for institutions of higher education.** The measure allows the identity of any person making a donation to a public university to remain anonymous and exempts certain public university fundraising activity records that reveal fundraising strategies relating to identifiable donors and their personal information.
- **Electronic meetings by public bodies.** The measure allows any local governing body or agency of local government to meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency.
- **Social security numbers.** The measure prohibits the dissemination of another person's social security number, regardless of whether such number is obtained from a public or private record.
- **Government Data Collection and Dissemination Practices Act (GDCDPA).** The measure provides that no agency shall require an individual to furnish or disclose his social security number or driver's license number unless required by state or federal law and essential for the performance of that agency's duties.

General Laws**Passed**

Virginia Consumer Protection Act and foreclosure rescue. The measure makes persons participating in or servicing foreclosure rescues for profit with the intent to defraud a consumer a violation of the Virginia Consumer Protection Act.

Department of Veterans Services. The measure requires that the agency, in cooperation with the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Rehabilitative Services, establish a program to monitor and coordinate mental health and rehabilitative services support for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service.

Office of the Children's Ombudsman. The measure creates the Office of the Children's Ombudsman to provide ombudsman services, including investigation of complaints, advocacy, and the provision of information for children, parents, and citizens involved with child-serving agencies.

Common Interest Community Board. The measure establishes a Common Interest Community Board, creates a Common Interest Management Information Fund, and allows for a certification process for Common Interest Association managers.

Regulation of locksmiths. The measure sets up a regulatory scheme for the regulation of locksmiths by the Criminal Justice Services Board.

Failed

Green Building Act. See Environment and Natural Resources.

Health and Mental Health**Passed**

Donation of prescription medications. The measure requires the Board of Pharmacy to establish regulations to establish a Prescription Drug Donation Program to accept certain unused prescription drugs and re-dispense them for use by patients receiving medical care in clinics organized to provide healthcare to the indigent.

Adult Fatality Review Team. The measure establishes the Adult Fatality Review Team to review suspicious deaths of any incapacitated

adult aged 18 or older and any adult aged 60 or older, who was the subject of an adult protective services investigation and whose death was due to abuse or neglect or acts that suggest abuse or neglect.

Health terms in the Code. The measure replaces the term "mentally retarded" with the term "persons with intellectual disability" and replaces the term "mental retardation" with the term "intellectual disability" in the Code of Virginia.

Reporting of infectious diseases. The measure adds persons in charge of residential or day programs, services, or facilities licensed by any agency of the Commonwealth to the list of nonphysicians who must report disease outbreaks.

Health care provider liability protections. The measure provides that health care providers who respond to a disaster are immune from civil liability for any injury or wrongful death arising from the delivery or withholding of health care.

Mentally ill defendants. See Courts.

Involuntary commitment. See Courts.

Admissibility of mental health records in child custody cases. See Courts.

Failed**Statewide smoking ban.**

- Several measures would allow localities to adopt ordinances containing standards or provisions relating to smoking in restaurants that meet or exceed those established in the Virginia Indoor Clean Air Act.
- The measure would create the Virginia Smoke Free Air Act and prohibits smoking indoors in most buildings or enclosed areas frequented by the public.

Local Government**Passed**

Parks and recreation. The measure authorizes the Virginia Resources Authority to finance park and recreation projects.

Powers of zoning administrator. The measure expands certain authority related to enforcement of occupancy limits in residential dwelling units to all zoning administrators.

Public access of local budgets. The measure requires local governing bodies and school boards to annually publish their approved budgets online, and if there is no local website, the budgets must be available in hard copy.

Failed

Weapons in government facilities. The measure provides that the governing body of any locality may, by ordinance, make it unlawful for any person to possess a dangerous weapon upon the property, including buildings and grounds thereof, of any facility that is owned or leased by that locality and used by it for governmental purposes.

Carried Over

Impact fees. The measure grants general impact fee authority to "high-growth" localities, and any fees imposed and collected shall only be used for public facilities that are impacted by a particular development project, however, the fees may be used in the general area of the project.

Motor Vehicles**Passed**

Repeal of abuser fees for certain drivers. See Courts and Criminal Justice.

Night required driving hours for learner's permits. The measure increases the minimum required driving hours from 40 to 45 hours for holders of learner's permits, at least 15 of which must be after sunset, and requires the completion of a DMV-supplied form certifying hours driven.

Mopeds. The measure provides that a person who operates a moped in excess of 35 miles per hour will be considered as operating a motorcycle.

Speed limit on rural rustic roads. The measure provides for a maximum speed limit of 35 mph on any highway designated a rural rustic road.

Wireless telecommunications devices. The measure prohibits use of wireless telecommunications devices by persons operating school buses, except in emergencies, or when the vehicle is lawfully parked and for the purposes of dispatching. Use of two-way radio devices authorized by school bus owners is permitted.

Special license plates for Sesquicentennial of the American Civil War. The measure authorizes the issuance of special license plates marking the sesquicentennial of the American Civil War that includes the cost of the state license plates and a one-time surcharge of \$15 with \$5 to go to the Virginia Sesquicentennial of the American Civil War Commission to support its operation and programs in Virginia.

Failed

Driver's license examinations. The measure requires that whenever an examination of an applicant for a driver's license requires the use of a foreign language interpreter, which is provided by DMV, the cost of the interpreter's services will be paid by the applicant. Applicants may not provide their own interpreters.

Business logo special license plates. The measure authorizes the issuance of special license plates bearing the symbols, emblems, or logotypes of business entities.

Social Services**Passed**

Veterans' services. The measure requires the Department of Veterans Services to establish guidelines for the determination of eligibility for Virginia-domiciled veterans and their spouses, orphans, and dependents for participation in programs and benefits administered by the agency and establishes the Veterans Services Foundation to carry out its powers and duties.

Temporary Assistance for Needy Families (TANF). The measure provides that the 24-month period of ineligibility shall not apply when a child is removed from his parents' home as the result of a child protective services report or complaint, as defined in regulations established by the Board of Social Services, and placed with a relative.

Screened Family Day Home Provider List. The measure requires the Department of Social Services to establish and maintain a Screened Family Day Home Provider List on a website created by the agency that provides names of screened individuals, who wish to offer their services as family day home providers.

EITC notice to TANF recipients. The measure requires the Department of Social Services to provide annually a notice of the federal and state earned income tax credit to all recipients of Temporary Assistance for Needy Families (TANF), food stamps, or certain medical assistance.

Comprehensive Services Act (CSA). The measure requires the State Executive Council to oversee the development and implementation of mandatory uniform guidelines for intensive care coordination services for children who are at risk of entering, or being placed in, residential care through the CSA program. The community policy and management team is responsible for establishing policies for providing intensive care coordination services.

Taxes and Finance

Passed

Repeal of abuser fees for certain drivers. See Courts and Criminal Justice.

School textbooks tax exemption. The measure extends the current sales and use tax exemption on sales of school textbooks to students attending nonprofit colleges and other institutions of learning to students attending for-profit institutions of learning.

Biodiesel income tax credit. The measure allows an income tax credit to biodiesel fuels producers in Virginia who produce up to two million gallons of biodiesel fuels a year of \$0.01 per gallon but no more than \$5,000 annually for taxable years beginning on and after January 1, 2008.

Energy and water conservation products tax holiday. The measure adds water-efficient products to the products sales tax holiday held during a four-day period in the month of October.

Bonds for institutions of higher learning. The measure authorizes the issuance of 9(c) bonds in a principal amount not to exceed \$350,565,000 for revenue-producing capital projects at certain institutions of higher learning.

Property tax on public service corporations and electric suppliers. The measure provides that the additional real property tax authorized to be imposed on commercial property by the localities in the Hampton Roads Transportation Authority shall not be imposed on property of a public service corporation or electric supplier unless a final certificate of occupancy for a commercial or industrial use has been issued and remains in effect.

Repeal of sales and use tax on motor vehicle repair services in certain localities. The measure repeals the authority of the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority to impose a sales tax on charges for motor vehicle repair services.

Failed

Bonds for Virginia facilities and other projects. (Will be taken up in Special Session I) The measure authorizes the issuance of bonds under the Virginia Public Building Authority in a principal amount not to exceed \$1,103,600,000, and under the Virginia College Building Authority with the principal amount of bonds issued for all such projects not to exceed \$1,353,729,000. The measure also authorizes

the State Treasurer to advance treasury loans in an amount not to exceed the costs of planning for certain capital projects with the total amount of treasury loans advanced for the costs of planning of all such projects not to exceed \$95,570,000.

Sales and use tax exemption for computers. The measure adds computers and computer-related equipment with a sales price of \$1,500 or less to the school supplies and clothing that are exempt from sales and use tax during a three-day period in August.

BPOL tax and illegal workers. The measure requires applicants seeking a local business license to certify that they do not employ illegal workers.

Motor fuel tax. The measure increases the tax on gasoline, diesel fuel, and alternative fuel by \$0.055 per gallon; increases the motor carrier road tax by an equivalent of \$0.055 per gallon of fuel used in the Commonwealth; and increases the alternative use fee for certain motor carriers from \$100 to \$150, which is an alternative to paying the motor carrier road tax.

Carried Over

Conditional zoning and impact fees. The measure replaces the current cash proffer system with a system of impact fees.

Apportionment for manufacturers. The measure allows manufacturers to elect an apportionment formula of multiplying their income by the sales factor or using the formula prescribed for other businesses.

Technology

Passed

Identity theft database breach notification. The measure requires an individual or entity that owns or licenses computerized data that includes personal information to disclose any breach of a database following discovery or notification of the breach to the Office of the Attorney General and any affected resident of the Commonwealth whose unencrypted and unredacted personal information was, or is reasonably believed to have been accessed and acquired by an unauthorized person.

Carried Over

Searchable budget database website. The measure requires the Director of the Department of Planning and Budget to maintain a searchable budget database website that would allow persons to search information for individual or specific appropriations or budget items.

Transportation**Passed**

HOV lanes. The measure extends until July 1, 2009, the "sunset" on the provision allowing vehicles bearing clean special fuel license plates to use HOV lanes regardless of the number of passengers.

Tolls on Interstate highways. The measure prohibits a private entity from imposing tolls or user fees under the Public-Private Transportation Act on any rural portion of I-81 without the prior approval of the General Assembly.

Carried Over

Changeable electronic variable message signs. The measure imposes a moratorium on the erection or conversion of advertisements and advertising structures into changeable electronic variable message signs.

Hampton Roads Transportation Authority. The measure abolishes the Hampton Roads Transportation Authority and the taxes, fees, and charges dedicated to financing its operation and programs.

The logo for the year 2008, featuring the number '2008' in a large, bold, yellow font. The '0's are stylized with a dark brown background behind them. The logo is positioned in the upper right corner of the yellow box.

DIVISION OF LEGISLATIVE SERVICES

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