

2001 SESSION HIGHLIGHTS



Session Highlights is designed to provide legislators with a list of significant legislation considered by the 2001 General Assembly, as selected by the staff of the Division of Legislative Services. This brief overview of the Session covers Assembly actions through adjournment sine die on Saturday, February 24, 2001.

Abortion

Passed

Informed consent. Establishes certain conditions for obtaining informed written consent from a pregnant woman, of any age, prior to performing an abortion, including the requirement that each woman be given, at least 24 hours before the abortion, an explanation of the proposed procedures or protocols; an instruction that she may withdraw her consent at any time prior to the procedure; an offer to speak with the physician who is to perform the abortion; a statement of the probable gestational age of the fetus at the time the procedure is to be performed; and an offer to review printed materials that must be developed by the Department of Health.

vice rates that approximate those likely to be produced if a competitive regional market existed.

Virginia Telephone Privacy Protection Act. Adopts restrictions on telemarketing practices that follow federal telemarketing sales rules by (i) limiting the hours that telemarketers can call residences in the Commonwealth, (ii) prohibiting callers from calling a telephone number when a person at such telephone number has stated that he does not wish to receive such solicitation calls, and (iii) requiring callers to identify themselves to persons answering their calls. The bill also prohibits callers from blocking caller identification services. Individuals may bring actions to collect damages of \$500 per violation, or up to \$1,500 for willful violations, and attorneys' fees and court costs, or to enjoin violations. Enforcement actions may also be brought by the Attorney General, attorney for the Commonwealth, and attorneys for any locality.

within the route of a proposed gas pipeline or electrical transmission line of 150kV or more be sent a notice of the proposed construction by first class mail. The notice requirements for a public utility proposing to build a gas pipeline are amended to require that notices include a written description of the proposed route the line is to follow and a map or sketch of the route and that the SCC hold at least one hearing in the area that would be affected by construction of the pipeline if requested in writing by 20 or more interested parties.

Insurance payments for services by pharmacists. Prohibits health insurers and health service plan providers, whose policies or contracts cover services that may be legally performed by licensed pharmacists, from denying reimbursement because the service is rendered by the licensed pharmacist if the service is performed under the terms of a collaborative agreement between a pharmacist and physician or the service is for a vaccination.

Commerce

Passed

Electric utility deregulation. Amends Virginia's 1999 Electric Utility Restructuring Act to establish a mechanism by which the SCC will determine rates to be paid by retail customers for "default service" after rate caps expire in mid-2007. Default service will be available to persons who do not select a supplier, are unable to obtain service from an alternative supplier, or have contracted with an alternative supplier who fails to perform. Rates for default service will be based on the prices in regional electricity markets where competition effectively regulates the price of electricity. If regional markets are not competitive, the SCC will set default ser-

Charges on installment loans. Permits banks and savings institutions to impose finance charges and other charges and fees at such rates and in such amounts on installment loans as the borrower may agree.

Consumer Finance Act loans. Repeals restrictions that currently limit the maximum amount of Consumer Finance Act loans to \$6,000, and limit the maximum term of such loans at 61 months. The measure also authorizes licensed lenders to impose late charges, not to exceed five percent of the delinquent loan installment, and to charge loan processing fees.

Notice of proposed location of utility lines. Requires that owners of property

Insurance agents; licensing. Incorporates the reciprocal agent licensing provisions of the NAIC Producer Licensing Model legislation that are necessary to comply with the Gramm-Leach-Bliley Act (GLBA).

Failed

Health insurance coverage for hearing aids. Requires health insurers, health maintenance organizations and corporations providing health care coverage subscription contracts to provide coverage for hearing aids and related services. Such coverage shall include one hearing aid per

hearing-impaired ear, up to a cost of \$1,200, every 48 months.

Electric utilities restructuring schedule. The scheduled deadlines for actions required to effectuate the restructuring of electric utilities are delayed by one year, except that the date by which incumbent utilities are required to submit functional separation plans is pushed back from January 1, 2001, to July 1, 2002.

Constitutional Amendments

Passed

Post-conviction claims of actual innocence. Provides that the Supreme Court may hear, as part of its original jurisdiction, claims of actual innocence presented by convicted felons in the cases and manner provided by the General Assembly.

Property tax exemptions. Allows local governing bodies to grant tax exemptions for property used for charitable and certain other purposes by local ordinance subject to restrictions and conditions prescribed by the General Assembly. The present Constitution allows the General Assembly to exempt such property by classification or by designation by a three-fourths vote in each house.

Failed

Car taxes. Exempts motor vehicles used for non-business purposes from taxation.

County borrowing authority. Grants counties the same borrowing authority as cities and towns. The primary changes are to (i) apply a ceiling of 10 percent of assessed real estate valuation to county borrowing and (ii) eliminate the requirement for voter approval of county bond issues.

Felon's voting rights. Authorizes the General Assembly to provide by law, or establish a process by law, for the restoration of civil rights for felons who have completed service of sentence, probation, and parole and met such other conditions or limitations as may be prescribed by law.

Gubernatorial succession. Allows Virginia's Governor to succeed himself.

Courts

Passed

DNA evidence in capital cases. Establishes a procedure for the storage, preservation and retention of human biological evidence in felony cases. Also establishes a procedure for a convicted felon to petition the circuit court that entered the conviction to apply for a new scientific investigation of human biological evidence. The following elements must be met for the court to order the testing: (i) the evidence was not known or available at the time the conviction became final or not previously tested because the testing procedure was not available at the time; (ii) the chain of custody establishes that the evidence has not been altered, tampered with, or substituted; (iii) the testing is materially relevant, noncumulative, and necessary and may prove or disprove the convicted person's actual innocence; (iv) the testing requested involves a scientific method employed by the Division of Forensic Science; and (v) the convicted person did not unreasonably delay the filing of the petition after the evidence or the test for the evidence became available. The petition must also state the reasons the evidence was not known or tested by the time the conviction became final and the reasons that the newly discovered or untested evidence may prove or disprove the actual innocence of the person convicted.

Stalking. Changes the proof of knowledge of the defendant in a stalking case from actual knowledge to a standard requiring that the defendant know or should know that his stalking conduct places another person in reasonable fear of death, criminal sexual assault, or bodily injury.

Failed

Death penalty. Abolishes the death penalty for Class 1 felonies committed on or after July 1, 2001, and mandates the punishment upon conviction as life imprisonment without the possibility of parole.

Feticide. Provides that a human fetus can be the victim of a murder if the person who committed the act or acts did so with malice aforethought, was not the mother of the fetus, intended to cause the death of the pregnant woman or her fetus, and the fetus was viable and the mother was not getting a lawful abortion or an abortion to which she consented.

Death penalty moratorium. Imposes a moratorium on executions, pending a JLARC study of the death penalty.

Hate crimes. Adds sexual orientation to the hate crime statute, which applies to crimes based on race, religion, and ethnicity.

Guns in restaurants. Repeals the ban on carrying concealed handguns into establishments that serve alcohol.

Education

Passed

Student discipline:

- Requires division superintendents, in making recommendations for expulsion for violations other than those involving weapons or drugs, to consider various factors, such as the student's age, grade level, academic and attendance records, and disciplinary history, and the appropriateness and availability of an alternative education placement or program.
- Eliminates the one-year cap for the period of time a student who has been expelled or for whom admission has been withdrawn may be excluded from school attendance in another school division
- Permits school divisions excluding students who have been expelled from another school division in the Commonwealth to accept or waive any or all of any conditions for admission that may have been imposed by the expelling school division; however, the excluding school division cannot impose additional conditions for admission
- Requires school boards to establish, by regulation, a schedule pursuant to which expelled students may apply and reapply for readmission to school.

Pledge of Allegiance. Requires public school students to recite the Pledge of Allegiance daily, with exemptions for those with religious or philosophical objections.

Failed

SOLs. "Multiple criteria":

- Allows local school boards to provide at least one factor other than SOL test results to qualify a student for graduation from high school.

- Sixth-grade through ninth-grade students who narrowly fail an SOL test but who otherwise do well in school are granted a “margin for error” that allows them to blend their classroom grade into the final SOL score.
- SOL results would count no more than 75 percent in determining a school’s accreditation. Other accreditation factors include test-score improvement, student attendance, and lowering the drop out rate.

National motto. Requires all public schools to display the national motto, “In God We Trust.”

Elections

Passed

Presidential electors. Requires electors to vote for the presidential and vice presidential candidates of their party. Current law says only that they are “expected” to do so.

Recount procedures. Provides that the State Board of Elections shall promulgate standards by September 1, 2001, to be followed in the handling and counting of ballots for election recounts. Also provides for State Board recommendations by December 1, 2001, for permanent standards that may be enacted into law.

Punch-card voting. Establishes a statewide standard for counting of punch-card ballots that are incompletely punched through, leaving “chads.” A vote will be counted if two or more corners of the chad are separated from the voting card.

Campaign finance. Provides for a civil penalty of \$500 for the failure to file a campaign report by the appropriate deadline and additional penalties for subsequent failures. Present law imposes a penalty of up to \$300 for either late or incomplete filings.

Failed

Campaign finance. Requires that the State Board of Elections review the campaign finance reports of candidates for Governor, Lieutenant Governor, Attorney General and 10 percent of the candidates for the General Assembly selected at random.

Political advertisements; disclosure requirements. Requires that print, television, and radio advertisements supporting or opposing the nomination or election of clearly identified candidates contain specific information regarding the sponsor of the advertisement. This bill is patterned after the North Carolina “Stand By Your Ad Act.”

Absentee voting. Allows “no-excuse” absentee voting. Under current law, a voter must have an excuse to qualify for an absentee ballot.

Early voting. Allows early voting in person beginning 25 days before a November general election.

Electoral College. Provides that Virginia’s votes in the electoral college shall be allocated by the popular vote statewide and in each congressional district. The candidates for President and Vice President who win the popular statewide vote will receive the votes of the two statewide electors and the candidates who win the popular vote in each congressional district will receive the vote of that district’s elector. Maine and Nebraska allocate electoral college votes in this manner.

Health

Passed

Veterans care center. Authorizes the construction of a state center for retired veterans, to be located near the current McGuire Veterans Affairs Center in South Richmond.

Cancer treatment. Provides for breast and cervical cancer treatment for low-income women who are diagnosed through an existing state cancer-screening program. State funding in the amount of \$350,000 would bring federal matching Medicaid funds in the amount of \$700,000.

Practice of dentistry. Expands the definition of “dentistry” to include procedures that could be performed by oral or maxillofacial surgeons. Also adds to the criteria for disciplinary actions practicing outside the scope of the dentist’s or dental hygienist’s education,

training, and experience and provides for reporting requirements similar to physicians that allows consumers access to such data.

Failed

Emergency contraception. Provides women greater access to emergency contraception (directly from physicians, physician assistants, and pharmacists) in the form of pills or IUDs to be used within 72 hours of unprotected intercourse.

Virginia Prescription Drug Payment Assistance Program. Establishes a program to be administered by the Department of Medical Assistance Services, modeled on Delaware’s program, to assist eligible elderly and disabled Virginians in paying for prescription drugs. The benefit is limited to prescription drugs manufactured by pharmaceutical companies that agree to provide manufacturer rebates. Eligible persons must have incomes at or below 150 percent of the federal poverty level or have prescription drug expenses that exceed 40 percent of his or her annual income, as set forth in the appropriations act. Money to pay the claims will come from the newly established Prescription Assistance Fund, which is to be financed by 10 percent of the proceeds received by the Commonwealth under the Master Tobacco Settlement Agreement and any federal funds available for this purpose.

Medical deregulation (COPN). Eliminates the requirement that health-care providers acquire a Certificate of Public Need (COPN) to open clinics or provide medical services. To alleviate the impact on public hospitals and teaching hospitals, funds are provided through Medicaid to help populations more vulnerable to market conditions.

Midwives. Requires persons practicing midwifery for compensation to be licensed. Applicants must meet specialized training and competency standards set by the Board of Health, with advice from the Advisory Council on Midwifery, and must have a written protocol for medical emergencies. In addition, midwives must obtain the informed, written consent of any pregnant woman seeking midwife care.

Nursing home employees. Permits individuals who have been convicted of no more than one felony to be employed in a nursing home.

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Local Government

Passed

Condemnation by localities. Provides that a locality may condemn property outside of its boundaries only if expressly permitted by general law or special act. A locality may acquire property outside its boundaries through condemnation for purposes of establishing, maintaining or operating public utility facilities and mass transportation systems.

Commission on Growth and Economic Development. Creates a commission to study issues surrounding growth and economic development. The commission shall encourage the participation of all interested groups, organizations and individuals, including those associated with business interests, the development community, and environmental causes.

Natural Resources

Passed

Protection of Chesapeake Bay. Requires the reporting of ballast water discharges from ships in Virginia waters and requires a report be submitted by the Secretary of Natural Resources on the implementation of the Chesapeake Bay 2000 Agreement.

Wetlands protection. Advances the date on which the comprehensive nontidal wetlands regulatory program becomes effective for VDOT transportation projects from October 1, 2001, to August 1, 2001.

Failed

Chesapeake Bay Preservation Act. Expands the area covered by the Act to the entire Chesapeake Bay watershed, instead of the area roughly east of I-95 that the Act currently covers.

Taxation

Failed

Additional sales tax in Northern Virginia to fund transportation projects. Increases the state sales and use tax by one percent in all cities and counties within the Eighth Planning District. One-half of the revenues shall be distributed to a regional transportation authority created to address and act upon the transportation needs of

Northern Virginia. The remainder of the revenues shall be distributed to the counties and cities based on point-of-sale and may only be used for capital projects for public school construction and infrastructure improvements. The additional sales and use tax would be effective April 1, 2003, but is contingent upon (i) approval of the additional tax by a majority of persons voting in a joint referendum of all the cities and counties in the Eighth Planning District on November 6, 2002, and (ii) the passage of legislation by General Assembly creating a regional transportation authority for Northern Virginia.

Tax credit for donations to groups that provide tuition assistance to low-income students at private schools. Provides a tax credit of up to \$500 for taxpayers who donate money to specially organized charitable groups that provide tuition assistance to low-income students who attend private schools. Low-income students can receive up to \$3,100 per year; home-schooled students up to \$550. The private schools involved will be subject to the Standards of Learning.

Sales tax "holiday." Provides a late-August one-week "sales tax holiday" on purchases of school-related articles of \$100 or less.

Transportation

Passed

Teenage drivers.

- Bans teenage drivers age 17 and under (who have previously been convicted of a moving violation, a seat belt violation, or a child restraint violation) from driving between the hours of midnight and 4:00 a.m., with certain exceptions.
- Increases the minimum age for a learner's permit to 15 1/2.
- Minimum age for obtaining a driver's license increases to 16 years, three months (does not apply to those who received their learner's permits prior to July 1, 2001).
- Requires parental certification that learner's permit holders have completed at least 40 hours of practice behind the wheel, including at least 10 hours at night.
- Drivers less than 17 years old may carry no more than one non-family minor passenger; drivers 17 but not yet 18 years old may carry no more than three non-family minor passengers.

- Violations of the passenger restrictions and hours of operation restrictions are secondary offenses (drivers can be cited only if stopped by police for another violation).
- Drivers who are at least 18 but less than 20 years old must attend driver improvement clinics if they are convicted of a moving violation, a safety belt violation, or a child restraint violation.
- Driver training programs must include a minimum number of miles driven (determined by the State Board of Education) during the behind-the-wheel portion of the training.

Failed

Helmets for motorcyclists. Repeals the law that requires all motorcycle riders to wear helmets. Riders 17 years old and younger will still be required to wear helmets.

Open containers. Forbids open containers of wine, beer or liquor in motor vehicles. Passage qualifies Virginia for an additional \$12 million in federal highway safety funds in 2002.

Seat belts. Makes failure of drivers or front-seat passengers to buckle their seat belts a primary, rather than the current secondary, traffic offense.

Older drivers. Requires drivers 70 and older to take a vision test every time they renew their driver's licenses.

Miscellaneous

Passed

Eugenics. Resolution expresses the General Assembly's "profound regret" over Virginia's role in the discredited eugenics movement between 1924 and 1979.

<p>Published by the Division of Legislative Services</p>
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