



LEGISLATIVE POLICY 2009-2010

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1 SALES AND MARKETING

1.1 Alcoholic Beverages &/or Tobacco Products Purchased by Minors

Virginia Retail Federation supports strict laws prohibiting the purchase of alcoholic beverages or cigarette products by minors. Virginia Retail Federation encourages participation in educational programs designed to inform merchants and others about the laws governing the sale of alcoholic beverages and tobacco products; however, merchants should not be liable for selling alcoholic beverages or tobacco products to minors when the minor presents false identification as proof of age. Merchants who unknowingly accept a false ID should have the right to use that fact as a defense. Virginia Retail Federation also supports stricter penalties for persons/minors using false ID's to purchase or attempt to purchase alcoholic beverages or tobacco products.

1.2 Bad Checks

Virginia Retail Federation supports an increase in the fee a merchant can charge a customer for a returned check. Merchants take checks for the purchase of merchandise as a convenience to their customers. The cost to the merchant for collecting on a bad check is continually increasing. Merchants should be able to recover a reasonable amount for the cost they incur to collect a bad check.

Virginia Retail Federation opposes efforts to regulate or establish more stringent standards for retailers who cash checks incidental to their primary business. Many merchants cash consumer checks for the convenience of the customer and bear the costs and risks of these checks. No further legislation should be enacted that restricts the rights of merchants to charge reasonable fees for this service.

1.3 Discounts for Consumer Groups

Virginia Retail Federation opposes law that either imposes or restricts retail discounts offered by merchants to select consumer groups. Many merchants offer special discounts to selected groups of customers such as the elderly. These pricing

policies are entirely voluntary and should remain free of government involvement.

1.4 Display of Merchandise

Virginia Retail Federation opposes government regulations that mandate the presentation or location of merchandise within a retail establishment.

1.5 Drug Dispensing by Physicians

Virginia Retail Federation opposes the passage of professional operating standards that would allow physicians to dispense drugs without the limitations and restrictions now imposed on pharmacists. Virginia pharmacists are bound by rigid regulations mandated by the state and intended to safeguard the health and well-being of their customers. Passing professional operating standards that would allow physicians to dispense drugs without these same limits defeats the purpose of the present system of pharmacy regulation and could be detrimental to the health of Virginians.

1.6 Outlets for Stolen Merchandise (Organized Retail Crime); E-Commerce

Virginia Retail Federation supports legislation intended to eliminate outlets for the resale of stolen merchandise including e-commerce. The internet and flea markets are potentially the largest outlets for Organized Retail Crime (ORC) perpetrated by the resale of stolen goods. However, any such legislation should be carefully crafted to avoid imposing unnecessary burdens on legitimate retailers doing business over the internet or legitimate storefront outlets. Virginia Retail Federation supports legislation that would require internet and flea market vendors to keep records on proof of ownership for all new merchandise being sold. Further, Virginia Retail Federation supports strict but fair penalties for all non-compliant internet and flea market vendors.

However, Virginia Retail Federation opposes any regulation that would restrict the use of e-mail in the **legitimate** conduct of business. In this age of electronics, many consumers prefer to learn about new products and services in the convenience of their home and office and should be allowed to do so freely. There are services available that will restrict solicitations made to those who do not wish to be solicited by e-mail. Opt-out is available on internet Web sites and solicitations.

1.6.1 Manufacturer's Coupons

Virginia Retail Federation supports manufacturer's mail-in rebates as transactions between the manufacturer and the customer, not at the point of sale.

1.7 Games, Prizes and Gifts or Other Promotional Aids

Virginia Retail Federation opposes any state or federal law restricting the use of promotional games, door prizes, gifts, or other promotional aids. The promotion of sales through the use of promotional aids is a legitimate expression of free competition. Merchants should have the right to use promotional aids, just as customers have the option to respond to them.—Virginia Retail Federation does not support the use of deceptive and misleading tactics in connection with such sales and promotions. Further, Virginia Retail Federation supports legislation which prohibits misleading representations in the offering of gifts and prizes as part of legitimate sales promotions campaigns.

1.8 Government and Nonprofit Competitive Advantage

Competitive advantages for government and tax-exempt charities are unfair to private enterprise and should be eliminated. Virginia Retail Federation supports efforts to eliminate this unfairness and to establish a true competitive business environment in Virginia.

1.9 ABC Privatization

In the area of privatization ABC, Virginia Retail Federation only supports privatization if it is a result of a formal study, is open to the public for input and is approved through the legislative process and has proper regulatory controls.

1.10 Uniform Inspection for Facilities that Sell Food for Off-Premise Consumption; Licensing of Food Inspectors

Virginia Retail Federation supports a uniform inspection process, by one (1) inspecting agency, either the Department of Agriculture or the Department of Health – but not both, using a uniform inspection processes for all establishments that sell food, whether food is sold for off-premise consumption or in a restaurant. This would eliminate the duplication of efforts between the Department of Agriculture and the Department of Health. Currently a grocery store that sell groceries and hot prepared foods sold for on-premise consumption will be inspected by the Department of Health for it's on-premise operation and the Department of Agriculture for it's grocery portion of the store. Moreover, there is a different interpretation at times in localities whose inspection criteria enforcement standards vary. Using only one inspection service would eliminate costly repetition and save significant tax dollars while standardizing the process for retailers and assuring greater compliance.

In addition, Virginia Retail Federation opposes the licensing of food service inspectors as being an unnecessary and costly process. Virginia Retail Federation

believes that the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Health have ample regulations to assure safety in the preparation of foods. These two departments have legal power to redress violators of food safety laws and cease and desist powers to close down businesses that do not conform to the law. The mandatory licensing of food service inspectors will not assure better compliance with existing law.

1.11 Mail Order Sales

Virginia Retail Federation supports legislation that decreases the potential for fraud in mail order, direct TV or e-commerce sales. However, any such legislation should be carefully crafted to avoid imposing unnecessary burdens on legitimate retailers and catalog sellers.

1.12 Open Dating of Merchandise

Virginia Retail Federation opposes additional legislation or regulation on open (or code) dating of food products. The U.S. Department of Agriculture requires open dating on meat and poultry subject to its jurisdiction, and the Virginia Department of Agriculture and Consumer Services requires open dating on dairy products subject to its jurisdiction. Voluntary open dating is desirable for other food products, but should not be mandated.

1.13 Country of Origin Labeling

Virginia Retail Federation opposes state legislation which would require “country of origin” labeling for fresh vegetables and fruits – such mandated legislation should only be required at the Federal level.

1.14 Preferences for Virginia Vendors

Virginia Retail Federation supports legislation requiring the Department of Purchasing and Supply to give limited preferences to Virginia vendors and suppliers over out-of-state vendors and suppliers. There is no guarantee of reciprocity when Virginia makes purchases from out-of-state businesses. State purchases should be cost competitive, but the generation of state tax revenue from dealing with Virginia businesses should also be considered in the award of state contracts.

1.15 Product Warranties

Virginia Retail Federation opposes additional warranty rights and remedies beyond those provided by the Uniform Commercial Code and the federal Consumer Product Warranty Act. The Uniform Commercial Code provides effective remedies for consumers who purchase defective products under warranty. The Consumer Product Warranty Act prescribes minimum standards for warranty terms. Additional

warranty laws and remedies would impose an unnecessary burden on the marketplace.

1.15.1 Recall of Merchandise

Virginia Retail Federation supports verifiable notification of unsafe or tainted product recalls to all retail locations in a timely fashion.

1.16 Regulation of Proprietary Security

Virginia Retail Federation opposes restriction or regulation of proprietary security personnel. Businesses have long held the right and responsibility for protecting their inventories from theft and their customers from dangers. Such proprietary security should remain under the direct control of the business. Businesses may seek police protection in certain instances, but must retain the right to protect their inventory and customers with private security personnel.

1.17 Restrictions on International Trade

Virginia Retail Federation supports a policy of minimum restrictions on international trade. The Association opposes import quotas or restrictions that would add to the cost of imported products. The Association also opposes legislation that would discourage sales of imported goods through any discriminatory country-of-origin labeling or similar disclosure requirements.

1.18 Shelf and Unit Pricing Restrictions

Virginia Retail Federation opposes laws that prohibit the use of shelf pricing and/or the use of electronic scanning systems because such laws would interfere with a merchant's ability to price products in response to constantly changing competitive market conditions.

1.19 Shoplifting/Internal Theft

Virginia Retail Federation supports efforts to strengthen both prosecution of as well as the penalties attached to civil and criminal shoplifting and internal theft laws.

1.20 Telephone or Cell Phone Solicitation

Virginia Retail Federation opposes any further regulation that would restrict the use of the telephone or cell phone in the legitimate conduct of business. In this age of electronics, many consumers prefer to learn about new products and services in the convenience of their home and should be allowed to do so freely. There are federal regulations establishing a do not call list to protect those who do not want solicitation from telephone direct marketers. There are also services available

through the Direct Marketing Association that will restrict solicitations made to those who do not wish to be solicited by telephone.

1.21 Terrorism and Extortion

Virginia Retail Federation supports legislation that would apply stricter punishments to persons who use hoax explosive devices, phone calls, mail or any other method of communication in an attempt to coerce a business to respond to their demands. Retail shopping establishments and other public gathering places, by their very nature as attractions for large numbers of people, can be vulnerable to acts of terrorism and extortion. There is no difference between the disruption to business or the threat to public safety between a fake bomb, a prank threatening call or mail, and a legitimate threat.

1.22 Government Price Fixing

Virginia Retail Federation supports the free market and retailers determining their prices regardless of cost. Virginia Retail Federation opposes government intervention that influences product pricing.

1.23 Gift Certificate Regulations

Virginia Retail Federation supports full disclosure by the issuing company of all guidelines for the use of gift cards/gift certificates. The market will dictate utilization of such credits and government should not create legislation that will hamper this natural process as an additional burden to retailers.

The Virginia Retail Federation supports maintaining gift card/gift certificate exemption from state unclaimed property acts.

2 TAXES, FEES & INFRASTRUCTURE

2.1 Accelerated Sales Tax Payments

Virginia Retail Federation opposes the accelerated payment of sales tax payment.

2.2 BPOL / Merchant's Capital Tax

Virginia Retail Federation supports tax fairness and reform of the Business Professional and Occupational Licensing (BPOL) tax, and the Merchant's Capital Tax. Taxation of gross receipts, before business expenses are paid, ignores the taxpayers' ability to pay and severely impacts business profitability. While continuing to support tax reform and alleviation of this unfair burden, Virginia Retail Federation supports the reduction in the rate paid by retailers in general and may support rate reductions for an individual classification of retail.

2.3 Non-Deductibility of Lobbying Expenses

Associations pay a proxy tax in order for their members to deduct the total amount of dues paid to the association. Virginia Retail Federation believes legitimate lobbying expenses should not be taxed based on associations' legal, constitutional right to express positions on behalf of their members at the local, state and federal levels. Expressing positions falls under the right to freedom of speech and should not be included in associations' taxable operating expenses.

2.4 Personal Property Taxes

Virginia Retail Federation supports a reasonable revision of the classification and assessment of local tangible personal property taxes and efforts to make these taxes more uniform throughout the state.

2.5 Real Estate Taxes

Virginia Retail Federation supports efforts to provide incentives for localities to roll back real estate taxes when other revenues become available or government costs can be trimmed.

2.6 Sales Taxes

Virginia Retail Federation opposes industry specific sales taxes and favors tax credits or refunds over exemptions for food, non-prescription drugs, and other tangible commodities. The difficulties and expense of administering sales tax exemptions by retailers are immense and usually result in increased prices to consumers.

2.7 Sales Tax Collection Costs

Virginia Retail Federation opposes any effort to reduce the partial reimbursement to merchants collecting the state sales tax and supports efforts to allow retailers to recover the full cost of their tax collection services from the state. Virginia retailers perform a vital service in collecting sales taxes for the Commonwealth. The retailer has a cost significantly greater than the reimbursement they now receive. They should, at least, be compensated for the cost they incur.

2.8 Sales Tax Exemptions

Virginia Retail Federation supports Virginia's current broad-based retail sales tax with its minimum of exemptions including sales tax exemptions relating to manufacturing, advertising, farming and retailing, for products or materials for resale. The repeal of manufacturing, advertising, farming and retailing exemptions which now exist would constitute a form of double taxation.

2.9 Unclaimed Property

Virginia Retail Federation supports efforts to reform Virginia's Unclaimed Property Law; however, Virginia Retail Federation strongly believes that gift certificates, electronic gift cards, layaway and other such prepaid sales as well as patronage dividends or credits and other such incentive reductions in the cost of goods sold are not items of intangible property to which unclaimed property laws should apply. All other categories of intangible property to which unclaimed property laws are applied are claims which must be satisfied by the payment of money while the above-listed categories of intangible property can be redeemed only for services or merchandise. We believe the State cannot obtain funds from obligations that do not bind the obligor to pay money; therefore, gift certificates and other intangible property listed above should be expressly exempt from Virginia's Unclaimed Property Act.

2.10 Unnecessary Taxes

While Virginia Retail Federation opposes tax increases as a general principal, it does support legislation that removes undue tax burdens placed on retailers.

2.11 Sales and Use Tax on the Remote Sale of Goods

Virginia Retail Federation believes that all retail sales of tangible personal property should be treated in the same manner whether made in a traditional store, through a traditional store's own website or by a strictly e-commerce retailer or other remote seller. Virginia Retail Federation supports the equal application of laws requiring state and local Sales and Use Tax collection or the elimination of such requirements for all such retailers.

2.12 Sales Tax Holiday

Virginia Retail Federation supports the concept of a state funded Sales Tax Holiday for specific products as long as the holiday incorporates all state and local sales taxes. Further, Virginia Retail Federation supports the temporary or permanent repeal of the existing law that prohibits retailers from advertising and paying the sales tax for the consumer, but only during a statewide predetermined sales tax holiday. Virginia Retail Federation supports extending this privilege to all categories of business without a dollar cap.

2.13 Estate Tax

Virginia Retail Federation opposes any estate tax.

2.14 Motor Fuel Tax

While Virginia Retail Federation opposes any increase in the Motor Fuel Tax or Sales and Use Tax, we retain the right to be supportive of such a tax increase if the increase in such taxes set for Virginia would be no higher than its border states thus enabling Virginia to remain price competitive.

3 EMPLOYMENT

3.1 Drug Testing in the Workplace

Virginia Retail Federation supports the use of drug testing in the selection of new employees and the testing of current employees to ensure a safe and productive workplace. It is essential that businesses be able to establish policies regarding employee substance abuse and have the right to perform reasonable drug screening as a term of employment. Virginia Retail Federation also supports legislation that establishes standards for certification of drug testing laboratories.

3.2 Health Care Coverage

Virginia Retail Federation supports a broad-based approach to providing affordable health care for all Virginians. Virginia Retail Federation opposes any mandate requiring employers to provide health care coverage to employees or requiring specific health care services or providers be included in employer provided health care plans. Virginia Retail Federation supports more customer-driven healthcare and less government mandated and controlled healthcare. Virginia Retail Federation favors incentives to encourage small businesses to provide minimal cost health care coverage to their employees. Employers should retain the option of tailoring their health care programs to their employees' needs.

3.3 Mandated Fringe Benefits

Virginia Retail Federation opposes mandating any fringe benefit to employees.

3.4 Minimum Wage

Virginia Retail Federation opposes any additional increase in the minimum wage and supports both youth and training differentials.

3.5 Public Employee Unionization

Virginia Retail Federation opposes collective bargaining or meets and confer requirements for Virginia public employees.

3.6 Right to Work

Virginia Retail Federation believes that all citizens should have the right to work without mandatory membership in a labor union. Virginia Retail Federation opposes any mandatory requirement that workers must join a labor union and any legislation that would disrupt the state's present balance between labor organizations, employees and management.

3.7 Unemployment Compensation

Virginia Retail Federation supports reasonable measures to apportion fairly the responsibility for unemployment benefits between the worker and the employer. Unemployment compensation benefits should be provided only to full-time employees who have established a significant attachment to the work force and who lose their job through no fault of their own. Virginia Retail Federation supports the continued fiscal integrity of the unemployment compensation fund so it is available to help those to whom unemployment compensation should apply.

3.8 Work Opportunity Tax Credit

Virginia Retail Federation supports the continuation of the Work Opportunity Tax Credit program by allowing employers to receive tax credits for hiring disadvantaged employees.

3.9 Workers' Compensation – Gradually Incurred Work-related Injuries

Virginia Retail Federation opposes granting workers compensation benefits for gradually incurred work-related injuries. The intent of Virginia's workers compensation statute is to compensate employees for clearly identifiable injuries sustained on the job.

3.10 Living Wage Mandates

Virginia Retail Federation opposes local living wage mandates.

4 ADVERTISING

4.11 Comparison Price Advertising

Virginia Retail Federation supports fair and honest comparison price advertising. The use of such advertising is the keystone of the free enterprise system.

4.12 Outdoor Advertising

Virginia Retail Federation opposes any change in the law that would require the removal of legitimate advertising signs and billboards with or without just compensation.

5 CREDIT AND THE CONSUMER

5.1 Consumer Protection Act

Virginia Retail Federation supports enforcement of the comprehensive Consumer Protection Act, the Virginia Solicitation of Contributions Law, adequate funding for the Virginia Office of Consumer Affairs and consumer representation in the Office of the Attorney General. However, Virginia Retail Federation would oppose any attempt to add enforcement powers to the Office of Consumer Affairs.

5.2 Credit Card Surcharges

Virginia Retail Federation opposes any restrictions on the ability of a merchant to impose reasonable charges on their customers for the privilege of using credit cards to make their purchases.

5.2A Credit Card Interchange Fees

Virginia Retail Federation understands the function of reasonable processing fees paid to credit card vendors. However, Virginia Retail Federation opposes the collective setting of unrestricted interchange fees by credit card companies which might represent an anti-trust violation and costs merchants billions of dollars annually. Virginia Retail Federation opposes such unrestricted fees as well as increased fees for specific classes of cards designed to provide consumer rebates essentially funded by retailers.

5.3 Creditors' Claims

Virginia Retail Federation supports the right of businesses to satisfy claims against debtors by attaching the debtor's bank accounts or retirement plans.

5.4 Finance Charge Rates

Virginia Retail Federation opposes efforts at the state or federal level to impose statutory limits on finance charges, to impose terms for the extension of consumer credit or to impose conditions on the extension of consumer credit.

5.5 Garnishment

Virginia Retail Federation supports Virginia's garnishment law and the concept of payroll deductions of liens by employers for legal drafts and child support; however, this service is not without a cost to employers. The employer should continue to be allowed the deduction of a fee from the employee's garnished paycheck to cover the expenses incurred by the employer in complying with the state's garnishment laws.

5.6 Privacy

Virginia Retail Federation supports legislation that criminalizes identity theft and provides effective penalties against these criminals; however, we caution against legislation that imposes onerous restrictions on the relationship between a retailer and its customers. We discourage efforts to impose stricter controls on a retailer's internal use of customer information as well as controls over the sharing of that information by a retailer for purposes of protecting itself or its customers from fraud or theft by complying with state and federal reporting laws. Consumers who elect to restrict access to credit reports in an effort to protect against identity theft must assume financial and restraint of trade consequences.

6 STATE AND LOCAL GOVERNMENT

6.1 Dillon Rule

Virginia Retail Federation supports the Dillon Rule giving localities only those powers expressly granted to them by the General Assembly. Many localities face severe financial shortfalls, and without the restraints imposed by the Dillon Rule, some localities may attempt to impose a disproportionate share of the local tax burden on businesses.

6.2 Initiative and Referendum

Virginia Retail Federation opposes the enactment of initiative and referendum procedures. States that have initiative and referendum procedures have found that, although citizens have good intentions, they often enact changes in the law that have unintended consequences. Members of the General Assembly are elected by the citizens of Virginia to enact state laws and should continue to be the law-making body of Virginia's state government.

7 LAWS & THE COURTS

7.1 Civil Liability Exemptions for Donations to Charity

Virginia Retail Federation supports the exemption for donors of food products from civil liability and urges that the exemption be extended to all donors of merchandise to tax-exempt charities. Many businesses and organizations donate equipment and merchandise to charities, educational institutions, and other entities exempt from tax under Section 501 (c) (3) of the Internal Revenue Service Code. These donors should not be held liable for injury resulting from contributions marked “donated” or “not for resale.”

7.10 Regulating Premises

Virginia Retail Federation opposes any effort to regulate access to non-public areas in retail operations. This presents an economic and security challenge to the merchant.

7.2 Class Action Law Suits

Virginia Retail Federation opposes class action law suits and any legislation authorizing class action law suits. The General Assembly has provided, through the Office of Consumer Affairs, a vehicle for re-dress of grievances.

7.3 Comparative Fault

Virginia Retail Federation opposes comparative fault legislation. Such legislation serves no judicious purpose since gradation of fault is virtually impossible to determine. A comparative negligence rule is an incentive to sue and costly and burdensome to the courts.

7.4 Dispute Resolution

Virginia Retail Federation encourages the continued expansion of methods available to resolve disputes outside of the traditional court system.

7.5 Personal Injury Liability Reform

Virginia Retail Federation supports the reform of Virginia’s system of personal injury liability including statutory limits on the award of punitive damages, including limitations on the liability of exposures of officers and directors of both for-profit and nonprofit corporations, and including increased penalties against attorneys who file frivolous lawsuits.

7.6 Premises Liability

Virginia Retail Federation opposes any attempt to hold business owners or the business itself liable for the unlawful act of a third party against a customer of the business on the premises of the business.

7.7 Reimbursement for Rewards

Virginia Retail Federation supports legislation which enables judges, as part of sentencing, to require convicted felons to make reimbursement to any person or organization that paid a reward for information leading to the arrest and conviction of the felon.

7.8 Small Claims Courts

Virginia Retail Federation encourages the continued expansion of small claims courts to all jurisdictions in the Commonwealth.

7.9 Statute of Limitations

Virginia Retail Federation opposes any attempts to change Virginia's statute of limitations or the rules for accrual in civil actions that would increase litigation and further overwhelm the court system.

8 ENVIRONMENT

8.1 Clean Indoor Act

Virginia Retail Federation supports the right of business owners to determine what areas, if any, will be designated as smoking or non-smoking areas within their place of business.

8.2 Degradable Packaging Materials

Virginia Retail Federation opposes mandatory requirements regarding recycled degradable or environmentally friendly packaging materials. Similarly Virginia Retail Federation believes any restrictions should be dictated by the market and not necessarily legislated. Government incentives to modify consumer acceptance of such products or behaviors are encouraged.

8.3 Energy Deregulation

Virginia Retail Federation supports economic incentives for more efficient production and use of energy resources.

8.4 Litter Disposal

Virginia Retail Federation supports the Virginia Litter Control & Recycling Advisory Board, a cooperative effort of education, public awareness and recycling that is more effective than forced deposit legislation.

8.5 Litter Disposal

Virginia Retail Federation supports environmental protection efforts but is opposed to regulations that will significantly increase the cost of retail operations. 10.3.09