

# LEGISLATIVE POLICY (2010)



VIRGINIA RETAIL MERCHANTS ASSOCIATION  
THE VOICE OF FREE ENTERPRISE SINCE 1905

*SALES AND MARKETING*

*TAXES, FEES AND INFRASTRUCTURE*

*EMPLOYMENT*

*ADVERTISING*

*CREDIT AND THE CONSUMER*

*STATE AND LOCAL GOVERNMENT*

*LAWS AND THE COURTS*

*ENVIRONMENT*

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# LEGISLATIVE GUIDING PRINCIPLES

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## SALES AND MARKETING

### 1. **Alcoholic Beverages Purchased by Minors**

The VRMA supports strict laws prohibiting the purchase of alcoholic beverages by minors. The VRMA encourages participation in educational programs designed to inform merchants and others about the laws governing the sale of alcoholic beverages. However, merchants should not be liable for selling alcoholic beverages 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. The VRMA also supports stricter penalties for persons/minors using false ID's to purchase or attempt to purchase alcoholic beverages.

### 2. **Bad Checks**

The VRMA 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.

### 3. **Check Cashing Laws**

The VRMA 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.

### 4. **Discounts for Consumer Groups**

The VRMA 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 interference.

### 5. **Display of Merchandise**

The VRMA opposes government regulations that mandate the presentation or location of merchandise within the retail establishment.

### 6. **Drug Dispensing by Physicians**

The VRMA 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.

### 7. **E-Commerce**

The VRMA 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 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.

### 8. **Electronic Funds Transfer Systems**

The VRMA opposes any steps toward federal or state control of electronic funds transfer (EFT) systems. EFT systems are a technological advance. They materially affect the retail industry, not only in transferring funds among retailers, suppliers and customers, but in the control of credit information systems and the granting of retail credit. Centralization would be contrary to the free enterprise system and the free flow of information.

**9. Games, Prizes and Gifts or Other Promotional Aids**

The VRMA opposes any state or federal law restricting the use of promotional games, door prizes, gifts, trading stamps, 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. The use of deceptive and misleading tactics in connection with such sales and promotions should not be tolerated. The VRMA supports legislation which prohibits misleading representations in the offering of gifts and prizes as part of legitimate sales promotions campaigns.

**10. Government and Nonprofit Competitive Advantage**

The Commonwealth of Virginia and tax-favored businesses such as charities enjoy distinct competitive advantages over private businesses. The VRMA supports efforts to eliminate this unfairness and to establish a true competitive business environment in Virginia (e.g. privatization of ABC). The VRMA believes fair and open competition invigorates the economy. Competitive advantages for government and tax-exempt charities are unfair to private enterprise and should be eliminated.

**11. Internet Regulation**

The VRMA supports legislation that decreases the potential for fraud in sales over the Internet. We also support equitable practices for products purchased over the Internet so as not to create a competitive disadvantage for retail establishments. However, any such legislation should be carefully crafted to avoid imposing unnecessary burdens on legitimate retailers doing business on the Internet.

**12. Inspection for Facilities that Sell Food for Off-Premise Consumption**

No substantive rationale exists for reclassification that would transfer off-premises food sales to the jurisdiction of the Virginia Department of Health. The VRMA opposes any attempt to apply "restaurant" definitions or regulations to establishments that sell foods intended for off-premises consumption. Delicatessens, supermarkets, convenience markets, and other stores that sell prepared foods have long been under the inspection jurisdiction of the Virginia Department of Agriculture and Consumer Services. Their procedures have proven to be stringent and thorough.

**13. Licensing of Food Service Inspectors**

The VRMA opposes the licensing of food service inspectors as being an unnecessary and costly process. The VRMA 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.

**14. Mail Order Sales**

The VRMA supports legislation that decreases the potential for fraud in mail order sales. However, any such legislation should be carefully crafted to avoid imposing unnecessary burdens on legitimate retailers and catalog sellers.

**15. Open Dating of Merchandise**

The VRMA opposes additional legislation or regulation on open (or code) dating of merchandise. 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.

**16. Outlets for Stolen Merchandise**

The VRMA supports effective legislation that is intended to eliminate the number of outlets for the resale of stolen merchandise. Flea markets are one of the largest outlets for the resale of stolen goods. Requiring detailed record keeping in flea market sales is vital to deter the sale of stolen goods. The VRMA supports effective legislation that would require flea market vendors to keep records of purchase. Further, the VRMA supports strict but fair penalties for non-compliant flea market vendors.

**17. Preferences for Virginia Vendors**

The VRMA 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.

**18. Product Warranties**

The VRMA 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.

**19. Regulation of Proprietary Security**

The VRMA opposes restriction or regulation of proprietary security personnel. Businesses have long held the right and responsibility for protecting their inventories from theft. 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 stock with private security personnel.

**20. Restrictions on International Trade**

The VRMA 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.

**21. Returns and Refunds**

VRMA opposes further regulation of consumer returns and refunds. Merchants are typically forced to sell returned merchandise at a loss and frequently have a limited amount of time to return defective merchandise to manufacturers. Therefore, retailers should be allowed to determine their own return and refund policies individually.

**22. Shelf and Unit Pricing Restrictions**

The VRMA opposes laws that prohibit the use of shelf pricing and the use of electronic scanning systems. The VRMA encourages retailers to voluntarily inform consumers of unit pricing. But the imposition of restrictions on the use of shelf pricing or the use of electronic scanning systems would interfere with a merchant's ability to price products in response to constantly changing competitive market conditions.

**23. Shoplifting and Internal Theft**

The VRMA supports efforts to strengthen the civil and criminal shoplifting and internal theft laws. Shoplifting and internal theft results in millions in lost sales dollars each year to merchants and millions in lost sales tax revenue each year to the state. This theft and such offenses should be treated accordingly.

**24. Telephone Solicitation**

The VRMA opposes any regulation that would restrict the use of the telephone 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 services available through the Direct Marketing Association that will restrict solicitations made to those who do not wish to be solicited by telephone.

**25. Terrorism and Extortion**

The VRMA supports legislation that would apply stricter punishments to persons who use hoaxes, threats, 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. The disruption of business and threat to the safety of the public are no different whether a fake bomb is used; a prank threatening call or solicitation by mail is received; or a real threat is made.

**26. Tobacco Products Purchased by Minors**

The VRMA supports strict laws prohibiting the purchase of tobacco products by minors. The VRMA encourages participation in educational programs designed to inform merchants and others about the laws governing the sale of tobacco products. Merchants should not be liable for selling 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. The VRMA also supports stricter penalties for minors who purchase or attempt to purchase tobacco products.

**27. Uniform Food Inspections Standards**

The VRMA supports efforts to develop uniform statewide food inspection standards and inspection criteria. Many food retailers operate in a number of localities whose inspection criteria and the enforcement standards vary. Uniform statewide standards would assure greater compliance by these retailers.

**28. Government Price Fixing**

The VRMA supports the free market and retailers determining their prices regardless of cost and opposes government intervention to retailers to influence product pricing.

**29. Privacy and Technology**

The VRMA opposes restrictions on the use and implementation of such harmless and useful technology as Radio Frequency Identification Devices (RFID) for tracking products and goods. The use of such technology has many potential benefits to consumers as well as retailers.

**30. Sales Restrictions on Video Games**

The VRMA opposes any restrictions on the ability of a merchant to sell video games. The VRMA supports the Entertainment Software Ratings Board rating system and an industry solution regarding the sale of M-rated video games, including an age-verification policy and in-store signage to help educate parents and guide their purchase decisions. Many retailers already have a policy which requires age verification for persons appearing under twenty-one and strictly prohibits the sale of M-rated games to persons less than seventeen years of age.

**31. Gift Cards**

The VRMA opposes the elimination of fees or expiration dates. The VRMA opposes the return of cash for any remaining amount on a gift card. The VRMA supports disclosure of fees, expiration dates and other card information.

**TAXES, FEES & INFRASTRUCTURE**

**1. Accelerated Sales Tax Payments**

The VRMA opposes accelerated sales tax payments. We support sales tax payments on the twentieth of the month following collection. Accelerated sales tax payments move us to a system of estimated tax payments requiring early deposits. Accelerated sales tax payments result in a selective tax increase on the retail industry in Virginia.

**2. BPOL/Merchant's Capital Tax**

The VRMA supports the outright repeal of the business professional and occupational licensing (BPOL) tax, and the merchant's capital tax. The VRMA opposes the repeal of either tax when one tax is to be substituted with the other.

**3. Non-Deductibility of Lobbying Expenses**

The VRMA believes that the taxation of legitimate expenses incurred by businesses for their legal right to express their position on issues to their state and federal governments is an unconstitutional restriction of the right to the freedom of speech. This penalty for individual or collective expression of free speech should be repealed.

**4. Personal Property Taxes**

The VRMA 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.

**5. Real Estate Taxes**

The VRMA supports efforts to provide incentives, if not mandates, for localities to roll back real estate taxes when other revenues become available or government costs can be trimmed.

**6. Restocking Fees**

VRMA opposes regulating a merchant's ability to establish restocking fees. Businesses typically incur a loss on the processing of and reselling of returned merchandise and should continue to have the right to establish remedies for discouraging returns on classes of products that often suffer from a high rate of return or which are otherwise customized for a particular purchaser and have limited potential for sale to others.

**7. Sales Taxes**

The VRMA opposes industry specific sales tax 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. However, the VRMA supports the uniformity of tax rates and the uniformity of product category taxed.

**8. Sales Tax Collection Costs**

The VRMA 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.

**9. Sunsetting Sales Tax Exemptions**

The VRMA supports Virginia's current broad-based retail sales tax with a minimum of exemptions. The VRMA opposes the sunsetting of sales tax exemptions relating to manufacturing, advertising,

## TAXES, FEES & INFRASTRUCTURE CONT'D

farming and retailing. The repeal of manufacturing, advertising, farming and retailing exemptions which now exist would constitute a form of double taxation.

### **10. Supermajority on Sales or Income Taxes**

The VRMA opposes any change, by statute or Constitutional amendment, that would require a “super” majority to increase sales or income taxes. Although the VRMA generally does not favor tax increases, if such an increase is warranted, then all taxes should be considered and determined under the same majority vote.

### **11. User, Impact and Transfer Fees**

The VRMA opposes user fees, impact fees and transfer fees imposed by state or local agencies on inspections and similar public services already financed through the state’s General Fund or Highway Fund.

### **12. Utility Taxes**

The VRMA supports rollback or repeal of consumer and commercial utility taxes. These utility taxes are regressive, discriminatory and unrelated to the ability to pay. Corporate utility taxes are a deterrent to the development and expansion of the state’s economy. These taxes, if continued, should have a ceiling or be indexed to rate changes.

### **13. Value-Added Tax (VAT)**

The VRMA opposes the imposition of a value-added tax on goods for sale. A value-added tax would be highly inflationary and drain billions of dollars in disposable income from the economy. A federal value-added tax would additionally disturb state sales tax rates.

### **14. Unclaimed Property**

The VRMA supports efforts to reform Virginia’s Unclaimed Property Law. However, the VRMA 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 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 by escheating 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.

### **15. Sales Tax on Services**

The VRMA opposes any sales tax on services.

### **16. Sales and Use Tax on the Remote Sale of Goods**

The VRMA 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 web site or by a strictly e-commerce retailer or other remote seller. The VRMA 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.

### **17. Sales Tax Holiday**

The VRMA supports continuing the concept of a Sales Tax Holiday for all products as long as the holiday incorporates all state and local sales taxes. Further, the VRMA supports the temporary or permanent repeal of the law prohibiting retailers from advertising that they will pay the sales tax for the consumer.

### **18. Estate Tax**

The VRMA supports the repeal of the state estate tax.

**EMPLOYMENT  
EMPLOYMENT**

**1. Drug Testing in the Workplace**

The VRMA supports the use of drug testing in the workplace to ensure a safe and productive work force. Substance abuse costs employers in higher absenteeism, accidents, theft and additional retraining. 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. The VRMA also supports legislation that establishes standards for certification of drug testing laboratories.

**2. Health Care Coverage**

The VRMA supports a broad-based approach to providing affordable health care for all Virginians. The VRMA 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. The VRMA 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. Mandated Fringe Benefits**

The VRMA opposes mandating any fringe benefit to employees. The VRMA particularly opposes mandating child care programs as a fringe benefit. Child care programs represents one of the most costly additional benefits that could be imposed on the business community and the cost that would be incurred in order to provide such a benefit to employees simply is not affordable to most businesses.

**4. Minimum Wage**

The VRMA opposes any additional increase in the federal minimum wage and supports both youth and training differentials. The VRMA believes that any additional increase at either the federal or state level in the minimum wage would substantially contribute to unemployment, particularly among teenage workers. Expanded job opportunities would be created for teenage workers if a lower wage rate were prescribed for them.

**5. Public Employee Unionization**

The VRMA opposes collective bargaining or meet-and-confer requirements for Virginia public employees. Public employees presently enjoy substantial opportunities for redress of their complaints not available to workers in the private sector. Public employees also work for monopolies that, if shut down over labor disputes, would leave the public with no alternative means of obtaining the public service.

**6. Right to Work**

The VRMA believes that all citizens should have the right to work without mandatory membership in a labor union. The VRMA opposes any mandatory requirement that workers must join a labor union and any legislation that would disrupt the state's present balance between labor and organizations, employees and management. Virginia's adherence to Section 14(B) of the Taft-Hartley Act has been a stimulant to economic growth and job opportunities. Its repeal, or any change in the balance of the rights of labor organizations, employees and management, would be detrimental to the workplace environment and to Virginia's economic vitality.

**7. Social Security**

The VRMA supports efforts to monitor the Social Security system with a goal of economic oversight for future stability. The nation's Social Security system lacks a consistent, rational plan to assure its long-term solvency. The VRMA believes retirement security should be given a high priority and a

plan established to stabilize benefits and costs in a manner that will assure future solvency. The Social Security system should not be considered a funding source for other government programs.

## EMPLOYMENT CONT'D

### 8. **Unemployment Compensation**

The VRMA 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. The VRMA supports the continued fiscal integrity of the unemployment compensation fund so it is available to help those to whom unemployment compensation should apply.

### 9. **Work Opportunity Tax Credit**

The VRMA supports the continuation of the Work Opportunity Tax Credit program. This program expands employment opportunities by allowing employers to receive tax credits for hiring disadvantaged individuals.

### 10. **Workers' Compensation - Gradually Incurred Work-related Injuries**

The VRMA 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. Many physical infirmities result from a combination of factors, including off the job activities, hereditary predispositions and the aging process. Changes in the definition of work-related injuries to include these kinds of injuries would undermine the intent of the workers' compensation statute.

### 11. **Living Wage Mandates**

The VRMA opposes local living wage mandates. Living wage mandates base wages not on the value of the work performed by an employee, but instead on some subjective notion of what an employee needs.

## ADVERTISING

### 1. **Comparison Price Advertising**

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

### 2. **Outdoor Advertising.**

The VRMA opposes any change in the law that would require the removal of legitimate advertising signs and billboards with or without just compensation. Proposals to provide for the removal of such signs or for the "amortization" or a "grace period" for the removal of non-conforming signs and billboards are in conflict with the general protection given to non-conforming signs under Section 15.1492 of the Code of Virginia. Federal law requires payment for removal of non-conforming billboards on interstates or federally aided primary streets, regardless of whether the removal is required by a locality or the state. If such a sign is removed without the payment of compensation, the federal government must penalize the offending state by withholding 10% of its federal highway funds. The Commonwealth should not consider passing laws that may place Virginia in jeopardy of losing its federal highway funding or may work to undermine the constitutionally guaranteed rights of property owners.

## CREDIT AND THE CONSUMER

### 1. **Consumer Protection Act**

The VRMA supports enforcement of the comprehensive Consumer Protection Act, the Virginia

## CREDIT AND THE CONSUMER CONT'D

Solicitation of Contributions Law, adequate funding for the Virginia Office of Consumer Affairs and consumer representation in the Office of the Attorney General. However, the VRMA would oppose any attempt to add enforcement powers to the Office of Consumer Affairs. Instead of creating new agencies, extending powers to existing agencies or enacting far-reaching regulations, emphasis and tax dollars should be placed on consumer education and the development of dispute resolution systems. The Virginia Consumer Protection Act should continue to be enforced through the court system to allow fair hearings in view of evidence prior to any action being taken.

### 2. **Credit Card Surcharges**

The VRMA 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. The cost of credit in a free and competitive economy should be borne by those who wish to use this service.

### 3. **Exemption of Retirement Benefits from Creditors' Claims**

The VRMA supports the right of businesses to satisfy claims against debtors by attaching the debtor's bank accounts. Because they often live on fixed incomes, many retired persons often rely on consumer credit for consumer purchases. Laws that allow a debtor to exempt his or her pension funds from the claims of creditors may result in the denial of credit to some retired persons. Such exemptions should be repealed.

### 4. **Finance Charge Rates**

The VRMA 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. **Garnishment**

The VRMA 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.

### 6. **Payment of Debts by Mail**

The VRMA opposes any law that would require businesses to credit a payment of a debt prior to the actual receipt of that payment.

### 7. **Privacy/Identity Theft**

The VRMA shares concerns of innocent consumers who are victimized by high-tech scams that can decimate a person's credit worthiness. Such scams have serious onsequences for retailers as well, when our customer is denied access to credit or limited through no fault of their own or when we face the financial losses associated with fraudulent credit purchases. Therefore, the VRMA supports legislation that criminalizes identity theft and provides effective penalties against these criminals. However, we caution against legislation that imposes unnecessary restricitons 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. We do encourage retailers to develop strict policies governing consumer privacy information.

## STATE & LOCAL GOVERNMENT

### STATE AND LOCAL GOVERNMENT

#### 1. **Balanced Budget**

The VRMA favors legislation, or alternatively a Constitutional Amendment, requiring the federal government to adopt a balanced budget each year. Mandatory balanced budgets would help restrain the continuing escalation of government spending and indebtedness. Balanced budget requirements have proven effective in many states, and at the federal level, would be effective in curtailing the interest on the national debt.

#### 2. **Dillon Rule**

The VRMA supports the Dillon Rule giving localities only those powers expressly granted to them by the General Assembly. Many localities face severe financial shortfalls. Without the restraints imposed by the Dillon Rule, some localities may attempt to impose on business a disproportionate share of the local tax burden.

#### 3. **Initiative and Referendum**

The VRMA 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 which have unintended consequences, often to the very group of citizens that desired the change. 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.

## LAWS & THE COURTS

#### 1. **Civil Liability Exemptions for Donations to Charity**

The VRMA 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."

#### 2. **Class Action Law Suits**

The VRMA 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 redress of grievances. Class actions are subject to abuse, costly to the parties involved and further overwhelm the court system.

#### 3. **Comparative Fault**

The VRMA 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.

#### 4. **Dispute Resolution**

The VRMA encourages the continued expansion of methods available to resolve disputes outside of the traditional court system. These alternative dispute resolution methods have proven to be effective and inexpensive ways for resolving disputes between customers and merchants and between businesses.

#### 5. **Personal Injury Liability Reform**

The VRMA encourages the continued reform of Virginia's personal injury laws. The VRMA supports the reform of Virginia's system of personal injury liability, including statutory limits on the award of

## LAWS & COURT CONT'D

punitive damages, limitations on the liability of exposures of officers and directors of both for-profit and nonprofit corporations, and increased penalties against attorneys who file frivolous lawsuits. punitive damages, limitations on the liability of exposures of officers and directors of both for-profit and nonprofit corporations, and increased penalties against attorneys who file frivolous lawsuits.

### 6. **Premises Liability**

The VRMA 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. Business owners and their customers are entitled to the same protection by state and local law enforcement as afforded other private citizens. There is no justification for making merchants liable for unlawful acts committed by third parties on their premises.

### 7. **Reimbursement for Rewards**

The VRMA 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. Many individuals and “Crimesolver” or “Crimestopper” organizations offer monetary rewards for information leading to the arrest and conviction of criminals. Because these efforts have proven successful in solving crimes by helping make information available to assist in the investigation, such rewards should be encouraged by allowing for reimbursement to the individual or organization posting the reward.

### 8. **Small Claims Courts**

The VRMA encourages the continued expansion of small claims courts to all jurisdictions in the Commonwealth. Small claims courts are an effective and cost-saving forum for resolving disagreements between customers and merchants and between businesses.

### 9. **Statute of Limitations**

The VRMA opposes any attempts to change Virginia’s statute of limitations or the rules for accrual in civil actions. Expansion of these time periods would only serve to increase litigation and further overwhelm the court system.

## ENVIRONMENT

### 1. **Clean Indoor Act**

The VRMA 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. The owners or managers of a business and not a governmental agency, are in the best position to judge if it is in the best interest of their employees and customers to establish a smoking or non-smoking area and, if so, what part of the premises might be so designated.

### 2. **Clean Outdoor Air Act**

The VRMA opposes the use of mandatory car pooling as a solution to air quality problems in non-attainment areas. The VRMA supports the use of high occupancy vehicle (HOV) lanes or designations and other vehicular traffic reduction programs as an alternative to mandatory car pooling.

### 3. **Bags and Packaging Materials**

The VRMA supports the use of degradable packaging materials when economically feasible. The VRMA believes the General Assembly should not impose any mandatory requirements pertaining to paper or plastic packaging or support bans on packaging such as plastic bag bans. The VRMA does not support materials specific solutions such as corn based plastic. VRMA supports the voluntary efforts by retailers to offer consumers reusable bags, provide consumers with opportunities to recycle paper and/or plastic bags, and educate consumers about reuse and recycling of packaging materials.

## ENVIRONMENT CONT'D

### 4. **Energy Deregulation**

The VRMA supports the deregulation of the electrical and natural gas industries and any measures that will provide an economic incentive for more efficient production and use of energy resources. Price controls and restrictive regulations have discouraged competition in these industries and stymied any incentive for the maximum development of alternative energy sources. Government should encourage reliance on the free market to meet the public's energy needs.

### 5. **Hazardous Waste**

The VRMA supports continued assistance to business in helping them comply with the federal Resource Conservation and Recovery Act (RCRA). Environmental Protection Agency regulations for small businesses in Virginia are enforced by the Virginia Department of Environmental Quality. A large percentage of small quantity generators use in-state recycling facilities to handle some wastes. However, because no Virginia hazardous waste disposal facilities exist, some small businesses must transport and dispose of their hazardous wastes out of state, a complicated and expensive process. The VRMA urges the Virginia Department of Environmental Quality to continue to improve state assistance to small businesses.

### 6. **Litter Disposal**

The VRMA 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. State or local forced deposit legislation would address only a small part of the litter problem. Such mandates force retailers to collect used beverage containers at their own expense, inflating product prices. The programs of the Virginia Litter Control & Recycling Advisory Board have been far more effective with less cost on the private sector. In addition, numerous local jurisdictions administer curbside recycling programs which return a variety of recyclables to reuse. These programs are more effective than forced deposit measures.

### 7. **Solid Waste**

The VRMA recognizes the solid waste problem which is creating overcrowded landfills in Virginia. The VRMA supports the Virginia Department of Environmental Quality in its efforts to control this problem. The VRMA endorses the approach to managing solid waste by having a graduated increase in the minimum recycling rates in each locality; however, we do not support requirements for retailers to measure waste collection. Combined with a plan for source and waste reduction, storage, treatment and disposal, such an approach will enable Virginians to cope more effectively with problems brought on by solid waste disposal. The VRMA strongly urges manufacturers to package their products with a minimum of material and, wherever possible, use packaging material that is biodegradable or recyclable.

### 8. **Electronic Waste (E-waste)**

The VRMA supports a national approach to managing e-waste. If state legislation is imminent, the VRMA favors a "producer responsibility" model that would place shared responsibility for the recycling of electronic devices on manufacturers, distributors, retailers and consumers. Under this model, manufacturers of products must establish recycling programs. The VRMA opposes collecting any advanced disposal fee at the point of sale and mandatory take back of products at retail establishments.

# VIRGINIA RETAIL MERCHANTS ASSOCIATION

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