

25102016D

SENATE BILL NO. 909

Offered January 8, 2025

Prefiled January 5, 2025

A BILL to amend and reenact §§ 4.1-320 and 58.1-1021.09 of the Code of Virginia, relating to advertising alcoholic beverages, liquid nicotine, and nicotine vapor products; motor sports facility.

Patron—Stanley

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-320 and 58.1-1021.09 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-320. Illegal advertising; penalty; exception.

A. Except in accordance with this subtitle and Board regulations, no person shall advertise in or send any advertising matter into the Commonwealth about or concerning alcoholic beverages other than those which may legally be manufactured or sold without a license.

B. Manufacturers, wholesalers, and retailers may engage in the display of outdoor alcoholic beverage advertising on lawfully erected signs provided such display is done in accordance with § 4.1-112.2 and Board regulations.

C. Except as provided in subsection D, any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

D. For violations of § 4.1-112.2 relating to distance and zoning restrictions on outdoor advertising, the Board shall give the advertiser written notice to take corrective action to either bring the advertisement into compliance with this subtitle and Board regulations or to remove such advertisement. If corrective action is not taken within 30 days, the advertiser shall be guilty of a Class 4 misdemeanor.

E. Neither this section nor any Board regulation shall prohibit (i) the awarding of watches of a wholesale value of less than \$100 by a licensed distillery, winery or brewery, to participants in athletic contests; (ii) the exhibition or display of automobiles, boats, or aircraft regularly and normally used in racing or other competitive events and the sponsorship of an automobile, boat or aircraft racing team by a licensed distillery, winery or brewery and the display on the automobile, boat or aircraft and uniforms of the members of the racing team, the trademark or brand name of an alcoholic beverage manufactured by such distillery, winery or brewery; (iii) the sponsorship of a professional athletic event, including, but not limited to, golf, auto racing or tennis, by a licensed distillery, winery or brewery or the use of any trademark or brand name of any alcoholic beverage in connection with such sponsorship; (iv) the advertisement of beer by the display of such product's name on any airship, which advertising is paid for by the manufacturer of such product; (v) the advertisement of beer or any alcoholic beverage by the display of such product's name on any scale model, reproduction or replica of any motor vehicle, aircraft or watercraft offered for sale; (vi) the placement of billboard advertising within stadia, coliseums, or racetracks that are used primarily for professional or semiprofessional athletic or sporting events; ~~or~~ (vii) the sponsorship of an entertainment or cultural event; or (viii) the advertisement of any alcoholic beverage within the confines of a motor sports facility.

§ 58.1-1021.09. Safety requirements for liquid nicotine and nicotine vapor products.

A. 1. Any retail dealer shall comply with the following requirements:

a. Any liquid nicotine container shall use a child-resistant cap that has the child-resistant effectiveness set forth in the poison prevention packaging standards under 16 C.F.R. § 1700.15(b)(1);

b. Any liquid nicotine container shall use a tamper-evident package feature that is designed to remain intact and that does remain intact when handled in a reasonable manner during the manufacture, distribution, and retail display of such liquid nicotine or nicotine vapor product container; and

c. Any label on a liquid nicotine container shall meet the nicotine addictiveness warning statement requirements under 21 C.F.R. § 1143.3.

2. Any retail dealer selling liquid nicotine or nicotine vapor products shall also be required to display signage clearly indicating "products are not for sale to minors" or "underage sales prohibited" and to display vapor products behind a counter or in an enclosed display that is inaccessible without the assistance of a sales representative of the retailer.

B. No person may sell, offer for sale, or otherwise distribute any liquid nicotine or nicotine vapor product with labeling or packaging that is not in compliance with 21 C.F.R. § 1143.3 or that:

1. Imitates or mimics a trademark of any kind or trade dress of any food products, including candy, cookies, cereal, juice boxes, or soft drinks, that are or have primarily been marketed to minors;

2. Depicts images or references to video games, movies, videos, celebrity endorsements, or animated television shows known to appeal to minors;

- 59 3. Depicts the actual consumption of liquid nicotine or nicotine vapor products or a minor using liquid  
60 nicotine or nicotine vapor products;
- 61 4. Makes any health, medicinal, or therapeutic claims about liquid nicotine or nicotine vapor products; or  
62 5. Otherwise promotes overconsumption of liquid nicotine or nicotine vapor products.
- 63 C. Any person shall advertise or market any liquid nicotine or nicotine vapor products only where  
64 consistent with the following requirements:
- 65 1. All advertisements and marketing shall accurately and legibly identify the person responsible for its  
66 content, shall be truthful and appropriately substantiated, shall not be presented in a manner that is materially  
67 false or untrue, and shall not be presented in a manner that imitates or mimics a trademark of any kind or  
68 trade dress of any food products, including candy, cookies, cereal, juice boxes, or soft drinks, that are or have  
69 primarily been marketed to minors;
- 70 2. Any advertising or marketing in broadcast, cable, radio, print, and digital communications or any event  
71 marketing or sponsorships shall be made only where at least 85 percent of the audience is reasonably  
72 expected to be at least 21 years of age, as determined by reliable, up-to-date audience composition data. *The*  
73 *provisions of this subdivision shall not apply to advertisements or marketing for liquid nicotine or nicotine*  
74 *vapor products within the confines of a motor sports facility;*
- 75 3. No advertising or marketing may contain any statement concerning a brand or product that is  
76 inconsistent with any statement or images on its labeling; and
- 77 4. No advertising or marketing may contain any health-related statement that is untrue in any particular  
78 manner or tends to create a misleading impression as to the health benefits of consumption of liquid nicotine  
79 or nicotine vapor products.