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HOUSE BILL NO. 602

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services
on _____)

(Patron Prior to Substitute—Delegate Hernandez)

A BILL to amend the Code of Virginia by adding a section numbered 51.5-44.01, relating to motion picture theaters; open captioning.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 51.5-44.01 as follows:

§ 51.5-44.01. **Movie theater open captioning.**

A. As used in this section, unless the context requires a different meaning:

"Drive-in theater" means a facility where films are viewed from motor vehicles parked in an outdoor venue.

"Open captioning" means the visible on-screen display of a film's dialogue and non-speech elements, such as music, speaker identity, and sound effects.

"Closed captioning" means the written display of a film's dialogue and non-speech elements including music, speaker identity, and sound effects, delivered via a personal captioning device to individual patrons.

"Motion picture theater company" means any person, partnership, corporation, or entity that owns, operates, controls, or leases one or more motion picture theaters.

"Operating week" means the operating hours of a motion picture theater beginning on a Friday and ending the following Thursday.

B. All motion picture theater companies shall provide access to fully operational and well-maintained closed captioning technology for the general public for each screening of a motion picture that is produced and available with closed captioning as required by Title III of the federal Americans with Disabilities Act, 42 U.S.C. § 12131 et seq.

C. All motion picture theater companies, excluding outdoor theaters such as drive-in theaters, that own, operate, control, or lease five or more locations in the Commonwealth and are open to the general public shall provide open captioning on any film that has at least seven showings per operating week for a period greater than one operating week, provided that open captioning is available to the theater for such film as part of the digital cinema package. Within the first two operating weeks following a film's release, a theater shall provide at least four open captioning viewings. At least one of such open captioning viewings shall start between (i) 5:59 p.m. and 11:01 p.m. on a Friday, (ii) 10:59 a.m. and 11:01 p.m. on a Saturday or Sunday, or (iii) 5:59 p.m. and 10:01 p.m. on a Monday through Thursday. Beginning in the third operating week following a film's release, a theater shall provide at least one open captioning viewing within 72 hours after receiving a request for such a viewing provided that no theater shall be obligated to provide open captioning viewing for any particular screening for which advance tickets have been sold prior to its receipt of such request. Motion picture theater companies subject to the provisions of this subsection shall provide notice to the general public regarding the availability of open captioning, including the movies and viewing times at which open captioning will be provided.

D. All motion picture theater companies, excluding outdoor theaters such as drive-in theaters, that own, operate, control, or lease four or fewer locations and are open to the general public shall provide open captioning on any film that has at least seven showings per operating week for a period greater than one operating week, provided that open captioning is available to the theater for such film as part of the digital cinema package. Such theater companies shall provide at least one open captioning viewing within eight calendar days after receiving a request for such a viewing or voluntarily comply with the standards set forth in subsection C provided that no theater shall be obligated to provide open captioning viewing for any particular screening for which advance tickets have been sold prior to its receipt of such request.

E. If an open captioning screening of a motion picture overlaps with one or more other open captioning screenings of the same motion picture at the same motion picture theater, no more than one such motion picture screening may be counted toward the minimum number of screenings required by this section, except where it is not practicable to avoid such overlap.

F. All motion picture theater companies shall provide contact information on their websites for the purpose of receiving and fulfilling requests for open captioning screenings. All movie theater companies shall advertise the date and time of open captioning screenings in the same manner used to advertise all other motion picture screenings and indicate which screenings shall include open captioning by utilizing the character symbol "OC" or such other language or symbols as may reasonably identify which screenings will include open captioning.

G. The Office of Civil Rights of the Department of Law (the Office) created pursuant to § 2.2-520 shall establish a process for receiving consumer reports of suspected violations of this section. The Office shall

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60 have the authority to request show time information by written or verbal inquiry, conference, or any other
61 method or combination of methods. If the Office determines that a violation of this section has occurred,
62 within the next operating week after issuance of a notice of infraction, a motion picture theater found to be in
63 violation of the requirements of this section shall be required to provide one additional open captioning
64 screening of a motion picture than would otherwise be required.

65 H. All motion picture theater companies subject to the provisions of this section shall maintain documents
66 sufficient to demonstrate compliance with the requirements of this section for a period of at least one year.

67 I. Nothing in this section shall be construed to prevent a motion picture theater company from offering
68 more open captioning screenings than required by this section.