



LEGISLATIVE POLICY 2007

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SALES AND MARKETING

1. Alcoholic Beverages &/or Tobacco Products Purchased by Minors

The RMA supports strict laws prohibiting the purchase of alcoholic beverages or cigarette products by minors. The RMA 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. The RMA also supports stricter penalties for persons/minors using false ID's to purchase or attempt to purchase alcoholic beverages or tobacco products.

2. Bad Checks

The RMA 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 RMA 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 RMA 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.

5. Display of Merchandise

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

6. Drug Dispensing by Physicians

The RMA 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 RMA 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. Games, Prizes and Gifts or Other Promotional Aids

The RMA 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. The RMA does not support the use of deceptive and misleading tactics in connection with such sales and promotions. Further, the RMA supports legislation which prohibits misleading representations in the offering of gifts and prizes as part of legitimate sales promotions campaigns.

9. Government and Nonprofit Competitive Advantage

Competitive advantages for government and tax-exempt charities are unfair to private enterprise and should be eliminated. The RMA supports efforts to eliminate this unfairness and to establish a true competitive business environment in Virginia. In the area of privatization of ABC the RMA only supports privatization if it provides for open competition throughout the Commonwealth, is a result of a formal study, is open to the public for input and is approved through the legislative process. The RMA believes fair and open competition invigorates the economy.

10. Internet Regulation

The RMA supports legislation that decreases the potential for fraud in sales over the Internet. However, any such legislation should be carefully crafted to avoid imposing unnecessary burdens on legitimate retailers doing business on the Internet.

11. Inspection for Facilities that Sell Food for Off-Premise Consumption

The RMA 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. Using only one inspection service would eliminate costly repetition and save significant tax dollars while standardizing the process for retailers.

12. Uniform Food Inspections Standards

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

13. Licensing of Food Service Inspectors

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

15. Open Dating of Merchandise

The RMA 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. Country of Origin Labeling

The RMA 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.

17. Outlets for Stolen Merchandise

The RMA supports legislation that is intended to eliminate outlets for the resale of stolen merchandise. Flea markets and the internet are potentially the largest outlets for the resale of stolen goods. Requiring detailed record keeping for the sale of new merchandise at flea markets and on the internet is vital to deter the sale of stolen goods. The RMA supports legislation that would require flea market and internet vendors to keep records on proof of ownership for all new merchandise being sold.. Further, the RMA supports strict but fair penalties for non-compliant flea market and internet vendors.

18. Preferences for Virginia Vendors

The RMA 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.

19. Product Warranties

The RMA 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.

20. Regulation of Proprietary Security

The RMA 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.

21. Restrictions on International Trade

The RMA 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.

22. Shelf and Unit Pricing Restrictions

The RMA 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.

23. Shoplifting/Internal Theft

The RMA supports efforts to strengthen both civil and criminal shoplifting and internal theft laws.

24. Telephone or Cell Phone Solicitation

The RMA 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.

25. Terrorism and Extortion

The RMA 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.

26. Government Price Fixing

The RMA supports the free market and retailers determining their prices regardless of cost and oppose government intervention to retailers to influencing product pricing.

TAXES, FEES & INFRASTRUCTURE

27. Accelerated Sales Tax Payments

The RMA opposes the accelerated payment of sales tax payment. We support the sales tax payments on the twentieth day of the month following collection.

28. BPOL / Merchant's Capital Tax

The RMA supports the outright repeal of the Business Professional and Occupational Licensing (BPOL) tax, and the Merchant's Capital Tax; however, while continuing to support outright repeal, the RMA supports the reduction in the rate paid by retailers in general and may support rate reductions for an individual classification of retail. The RMA opposes the repeal of either tax when one tax is to be substituted with the other.

29. Non-Deductibility of Lobbying Expenses

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

30. Personal Property Taxes

The RMA 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.

31. Real Estate Taxes

The RMA 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.

32. Sales Taxes

The RMA 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.

33. Sales Tax Collection Costs

The RMA 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.

34. Sunset Sales Tax Exemptions

The RMA supports Virginia's current broad-based retail sales tax with its minimum of exemptions. The RMA opposes any sun-setting of 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.

35. Supermajority on Sales or Income Taxes

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

36. User, Impact and Transfer Fees

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

37. Utility Taxes

The RMA supports rollback or repeal of state and/or local consumer and commercial utility taxes; however, if continued, utility taxes should have a ceiling or be indexed to rate changes.

38. Value-Added Tax (VAT)

The RMA opposes the imposition of a value-added tax on goods for sale. A value-added tax is highly inflationary and would drain billions of dollars in disposable income from the economy.

39. Unclaimed Property

The RMA supports efforts to reform Virginia’s Unclaimed Property Law; however, the RMA 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.

40. Sales Tax on Services

The RMA opposes any sales tax on services.

41.Sales and Use Tax on the Remote Sale of Goods

The RMA 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. The RMA 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.

42.Sales Tax Holiday

The RMA supports the concept of a state funded Sales Tax Holiday for back to school products as long as the holiday incorporates all state and local sales taxes. Further, the RMA 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. The RMA supports extending this privilege to all categories of business without a dollar cap.

43.Estate Tax

The RMA opposes the state estate tax.

44.Motor Fuel Tax

While the RMA opposes any increase in the Motor Fuel Tax, we retain the right to be supportive of such a tax increase if the increase in motor fuel tax set for Virginia would be no higher than its border states thus enabling Virginia to remain price competitive.

EMPLOYMENT

45.Drug Testing in the Workplace

The RMA 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. The RMA also supports legislation that establishes standards for certification of drug testing laboratories.

46. Health Care Coverage

The RMA supports a broad-based approach to providing affordable health care for all Virginians. The RMA 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 RMA 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.

47. Mandated Fringe Benefits

The RMA opposes mandating any fringe benefit to employees.

48. Minimum Wage

The RMA opposes any additional increase in the federal minimum wage and supports both youth and training differentials. The RMA 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.

49. Public Employee Unionization

The RMA 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.

50. Right to Work

The RMA believes that all citizens should have the right to work without mandatory membership in a labor union. The RMA 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. 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.

51.Social Security

The RMA supports efforts to monitor the Social Security system with keen attention to the future. The nation's Social Security system lacks a consistent, rational plan to assure its long-term solvency. The RMA believes retirement security should be given a high priority and a plan established to stabilize benefits and costs in a manner that will assure solvency into the future. The Social Security system should not be considered a funding source for other government programs.

52.Unemployment Compensation

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

53.Work Opportunity Tax Credit

The RMA 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 employees.

54.Workers' Compensation – Gradually Incurred Work-related Injuries

The RMA 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.

55.Living Wage Mandates

The RMA opposes local living wage mandates.

ADVERTISING

56. Comparison Price Advertising

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

57. Outdoor Advertising

The RMA 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 is 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-confirming 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

58. Consumer Protection Act

The RMA 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, the RMA 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.

59.Credit Card Surcharges

The RMA 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.

60.Creditors' Claims

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

61.Finance Charge Rates

The RMA 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.

62.Garnishment

The RMA 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.

63.Payment of Debts by Mail

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

64.Privacy

The RMA supports legislation that criminalizes identity theft and provides effective penalties against these criminals; however, we caution against legislation that imposes unnecessary 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.

STATE AND LOCAL GOVERNMENT

65.Dillon Rule

The RMA supports the Dillon Rule giving Counties 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.

66.Initiative and Referendum

The RMA 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.

LAWS & THE COURTS

67.Civil Liability Exemptions for Donations to Charity

The RMA 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."

68.Class Action Law Suits

The RMA 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.

69.Comparative Fault

The RMA 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.

70. Dispute Resolution

The RMA 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.

71. Personal Injury Liability Reform

The RMA 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.

72. Premises Liability

The RMA 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 in their stores.

73. Reimbursement for Rewards

The RMA 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 "Crime Solvers" or "Crime Stoppers" organizations offer monetary rewards for information leading to the arrest and conviction of criminals. Because these efforts have proven successful in resolving 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.

74. Small Claims Courts

The RMA 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.

75. Statute of Limitations

The RMA 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

76. Clean Indoor Act

The RMA 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.

77. Clean Outdoor Air Act

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

78. Degradable Packaging Materials

The RMA supports the use of degradable packaging materials when economically feasible; however, there is no agreement among environmentalists as to whether biodegradable packaging is preferable to recycling of packaging materials. The RMA believes the General Assembly should not impose any mandatory requirements in this area until there is true agreement on how to best handle packaging materials in light of environmental concerns.

79. Energy Deregulation

The RMA supports the deregulation of the electrical and natural gas utilities and measures that would provide economic incentives for more efficient production and use of energy resources.

80. Litter Disposal

The RMA 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.

