

VIRGINIA MANUFACTURERS ASSOCIATION



2009 GENERAL ASSEMBLY WRAP-UP REPORT

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OVERVIEW

The 2009 Session of the Virginia General Assembly convened on January 14th and adjourned February 28th. This year was a short 45-day session with 2,577 bills introduced. Below, please find a chart summarizing all of the legislative action during the 2009 session.

Type	Introduced	Passed House	Passed Senate	Passed both	Continued	Failed	Approved	Vetoed
H.B.	1096	599	521	517	154	733	511	6
H.J.R.	430	375	367	366	21	85	3	0
H.R.	36	31	0	31	0	5	0	0
S.B.	754	372	508	369	131	514	363	6
S.J.R.	240	193	214	192	11	59	2	0
S.R.	21	0	21	21	0	0	0	0
Totals	2577	1570	1631	1496	317	1396	879	12

The Virginia Manufacturers Association (VMA) continues its multi-year, proactive effort to advance our *Virginia Strategy for Growth and Manufacturing Renewal* in the General Assembly. The following information illustrates the importance of VMA Legislative Services and the volume of work that it carries for the Membership.

The VMA staff managed **243 bills** this session, **approximately 10% of the total number of all bills introduced**. The efforts of dedicated staff, counsel, members, allied organizations and supportive legislators that serve as *Industry's Advocate* resulted in a record number of bills managed by the VMA in a single session. Although the 2009 General Assembly Session has come to an end, work for the VMA continues both on state and federal issues.

Year	Bills Managed	VMA LAC Alerts	Legislative Bulletin & Alerts	Government Affairs Council Meetings	Policy Primers Written	Frequency Staff Testified Before Committees
2003	105	9	7	7	28	31
2004	160	4	29	7	52	46
2005	65	14	26	7	35	46
2006	114	10	31	7	31	37
2007	125	5	21	8	26	43
2008	122	6	18	8	17	32
2009	243	7	20	8	11	36

VMA Legislative Services also yielded a 100% success rate with VMA priority bills. Compared to an overall bill passage rate of 34% for this General Assembly, the VMA's perfect success rate demonstrates the effectiveness of the organization's legislative efforts. This success helps us achieve our immediate goals and contributes to our long-term goal of making Virginia the most competitive manufacturing business climate in the South.

Although it is difficult to estimate the direct value of the entire advocacy effort to industry, the VMA estimates the aggregate value of the priority bills alone is likely to exceed \$75 million per year. This equates to an estimated benefit of \$13,000 per manufacturing facility in the state.

The 243 bills that the VMA Legislative Services managed this session have been categorized below. Of the managed bills, 39 percent fall into the “Energy” and “Environment” categories. The meteoric rise in the number of bills relating to energy and the environment is a recent phenomenon. As new policy areas continue to emerge in the form of regulation, the VMA will adapt to represent industry’s perspective and interest.

Bill Categories

Budget	5	Immigration	3
Civil Lit	8	Labor Issues	5
Econ Dev	12	Product Liab.	3
Educ./Workforce	5	Public Safety	1
Energy	58	Tax-Industry	27
Environ-General	10	Tax-Local	5
Environ-Air	9	Tax-M&T	7
Environ-Waste	9	Tax-Other	19
Environ-Water	9	Transportation	12
Gen. Govt.	11	Unemployment	6
Health Ins	9	Workers Comp	10

Please find below the detailed list of VMA priority bills. A full description of these bills and select bills VMA Legislative Services worked to defeat and/or amend is on subsequent pages. Additionally, a detailed list of bills related to the controversial Unemployment Insurance stimulus funds is available in the appendices along with a reference to all 243 bills.

1. HB 2437 (Byron) Corporate Income Tax, Single Sales Factor Option for Manufacturers
2. HB 2084 (Purkey) M&T Tax Reform, Repeal Pollution Control Equipment
3. SB 982 (Wagner) Stormwater Regulation Reform
4. HB 2531 (Kilgore) Energy Conservation and Efficiency
5. SB 1348 (Wagner) Energy Conservation and Efficiency
6. HB 2643 (Merricks) Economic Development
7. SB 980 (Wagner) Manufacturing Development Commission (repeals sunset date)
8. SB 981 (Wagner) Manufacturing Development Commission (expands membership)

NOTE: This report does not include any Federal advocacy reporting. It also does not contain any documentation of VMA Legislative Services, which includes regulatory work, outside of the 2009 Legislative Session. For this information, go to www.vamanufacturers.com or contact Member Services at thefuture@vamanufacturers.com

2009 VMA Priority Legislation

(Introduced on behalf of the VMA and/or as part of our proactive *Virginia Strategy for Growth and Manufacturing Renewal*)

HB 2437 Income tax, corporate; apportionment for manufacturers.

Summary as passed: Allows manufacturers to elect an apportionment formula of multiplying their income by the sales factor or using the formula prescribed for other businesses, whether the manufacturers have a sales factor or not. The provisions of the bill would be effective beginning July 1, 2011, and would be phased in with the apportionment formula having a 100 percent sales factor by 2014. For certain manufacturers, the election of a single sales factor is conditioned upon employment levels.

Status:

01/14/09 House: Prefiled and ordered printed; offered 01/14/09 092221448
01/14/09 House: Referred to Committee on Finance
02/02/09 House: Reported from Finance (22-Y 0-N)
02/02/09 House: Referred to Committee on Appropriations
02/03/09 House: Assigned App. sub: Economic Development, Agriculture and Natural Resources(Cox)
02/05/09 House: Subcommittee recommends reporting
02/06/09 House: Reported from Appropriations (23-Y 0-N)
02/10/09 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N)
02/11/09 Senate: Referred to Committee on Finance
02/17/09 Senate: Reported from Finance with substitute (16-Y 0-N)
02/18/09 Senate: Committee substitute agreed to 092931324-S1
02/18/09 Senate: Passed Senate with substitute (40-Y 0-N)
02/18/09 House: Senate substitute agreed to by House 092931324-S1 (88-Y 0-N)
02/18/09 House: VOTE: --- ADOPTION (88-Y 0-N)
02/24/09 House: Signed by Speaker
02/25/09 Senate: Signed by President
03/30/09 House: Governor's recommendation received by House
04/08/09 House: House concurred in Governor's recommendation (96-Y 0-N)
04/08/09 Senate: Senate concurred in Governor's recommendation (40-Y 0-N)
04/08/09 Governor: Governor's recommendation adopted
04/08/09 House: Enacted, Chapter 820 (effective 7/1/09)

HB 2084 Real and personal property taxes; exempts certain pollution control equipment & facilities.

Summary as passed: Exempts certain pollution control equipment and facilities from local property taxes.

Status:

01/13/09 House: Prefiled and ordered printed; offered 01/14/09 092585692
01/13/09 House: Referred to Committee on Finance
01/16/09 House: Assigned Finance sub: 2
01/28/09 House: Subcommittee recommends reporting
02/02/09 House: Reported from Finance (22-Y 0-N)
02/05/09 House: Passed House BLOCK VOTE (99-Y 0-N)
02/06/09 Senate: Constitutional reading dispensed
02/06/09 Senate: Referred to Committee on Finance
02/18/09 Senate: Reported from Finance with amendments (14-Y 2-N)
02/25/09 Senate: Passed Senate with amendments (39-Y 0-N)
02/26/09 House: Senate amendments agreed to by House (96-Y 1-N)
02/26/09 House: VOTE: --- ADOPTION (96-Y 1-N)
03/10/09 Senate: Signed by President
03/11/09 House: Signed by Speaker
03/30/09 Governor: Approved by Governor-Chapter 671 (effective 7/1/09)

SB 982 Stormwater; requires localities to regulate.

Summary as passed: Requires localities to provide full or partial waivers of charges to any person who develops, redevelops or retrofits outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading, as long as a stormwater permit has been obtained by either the Department of Conservation and Recreation or the Department of Environmental Quality when such permit is required. Under current law, localities have the option of providing such waivers and permits were not required to be obtained from the Department of Conservation and Recreation.

Status:

01/12/09 Senate: Prefiled and ordered printed; offered 01/14/09 092841340
01/12/09 Senate: Referred to Committee on Local Government
02/03/09 Senate: Reported from Local Government with amendment (14-Y 1-N)
02/06/09 Senate: Committee amendment agreed to
02/09/09 Senate: Passed Senate (40-Y 0-N)
02/13/09 House: Referred to Committee on Counties, Cities and Towns
02/16/09 House: Assigned CC & T sub: 2
02/19/09 House: Subcommittee recommends reporting
02/20/09 House: Reported from Counties, Cities and Towns (22-Y 0-N)
02/25/09 House: VOTE: BLOCK VOTE PASSAGE (100-Y 0-N)
03/05/09 Senate: Signed by President
03/06/09 House: Signed by Speaker
03/30/09 Governor: Approved by Governor-Chapter 703 (effective 7/1/09)

HB 2531 Energy conservation and efficiency; SCC to conduct proceeding to determine targets to accomplish.

Summary as passed: Directs the State Corporation Commission (SCC) to conduct a proceeding to determine achievable, cost-effective energy conservation and demand response targets that can be accomplished through demand-side management portfolios administered by generating electric utilities. The measure directs the SCC's cost-benefit analysis to take into consideration certain data on program costs and avoided costs and to consider standard industry-recognized tests. The SCC is required to report to the Governor and the General Assembly by November 15, 2009. The measure also requires the SCC to approve a demand response program that is proposed by a certain generating electric utility or a qualified nonutility provider if certain conditions are satisfied. The Department of Environmental Quality, in consultation with the SCC and Department of Mines, Minerals and Energy, is required to adopt regulations that exempt certain customers from the major and minor new source review regulations during verifiable peak shaving periods, to create a class or classes of general permits that would create the same exemptions, or both. The measure also directs the Air Pollution Control Board to adopt a general permit or permits for the use of back-up generation, in order to allow emergency generation sources to operate during periods that the independent system operator has notified electric utilities that an emergency exists or may occur. [HB 2000](#) is incorporated.

Status:

01/19/09 House: Presented and ordered printed 098736588
01/19/09 House: Referred to Committee on Commerce and Labor
01/26/09 House: Assigned C & L sub: 3 Energy
02/04/09 House: Subcommittee recommends reporting with amendment(s)
02/05/09 House: Reported from Commerce and Labor with substitute (18-Y 2-N)
02/09/09 House: Committee substitute agreed to 090176588-H1
02/10/09 House: VOTE: --- PASSAGE (87-Y 12-N)
02/11/09 Senate: Constitutional reading dispensed
02/11/09 Senate: Referred to Committee on Commerce and Labor
02/23/09 Senate: Reported from Commerce and Labor with substitute (13-Y 2-N)
02/25/09 Senate: Committee substitute agreed to 090246588-S1
02/26/09 Senate: Passed Senate with substitute (37-Y 1-N)

02/26/09 House: Senate substitute agreed to by House 090246588-S1 (61-Y 14-N)
02/26/09 House: VOTE: --- ADOPTION (61-Y 14-N)
03/10/09 Senate: Signed by President
03/11/09 House: Signed by Speaker
03/30/09 Governor: Approved by Governor-Chapter 752 (effective 7/1/09)

SB 1348 Electricity; SCC to conduct proceeding to determine appropriate energy conservation, etc.

Summary as passed: Directs the State Corporation Commission (SCC) to conduct a proceeding to determine achievable, cost-effective energy conservation and demand response targets that can be accomplished through demand-side management portfolios administered by generating electric utilities. The SCC is required to report to the Governor and the General Assembly by November 15, 2009. The measure also requires the SCC to approve a demand-side management program that is proposed by a certain generating electric utility or a qualified nonutility provider if certain conditions are satisfied. The Department of Environmental Quality, in consultation with the SCC and Department of Mines, Minerals and Energy, is required to adopt regulations that exempt certain customers from the major and minor new source review regulations during verifiable peak shaving periods, to create a class or classes of general permits that would create the same exemptions, or both. The measure also directs the Air Pollution Control Board to adopt a general permit or permits for the use of back-up generation, in order to allow emergency generation sources to operate during periods that the independent system operator has notified electric utilities that an emergency exists or may occur.

Status:

01/14/09 Senate: Prefiled and ordered printed; offered 01/14/09 089646340
01/14/09 Senate: Referred to Committee on Commerce and Labor
01/23/09 Senate: Assigned C&L sub: Utilities
02/09/09 Senate: Reported from Commerce and Labor with substitute (15-Y 0-N)
02/10/09 Senate: Committee substitute agreed to 090180340-S1
02/10/09 Senate: Passed Senate (34-Y 5-N)
02/13/09 House: Referred to Committee on Commerce and Labor
02/19/09 House: Reported from Commerce and Labor with amendments (17-Y 5-N)
02/24/09 House: Committee amendments agreed to
02/24/09 House: Passed House with amendments (77-Y 20-N)
02/24/09 House: VOTE: --- PASSAGE (77-Y 20-N)
02/25/09 Senate: House amendments agreed to by Senate (32-Y 5-N)
03/10/09 Senate: Signed by President
03/11/09 House: Signed by Speaker
03/30/09 Senate: Governor's recommendation received by Senate
04/08/09 Senate: Senate concurred in Governor's recommendation (36-Y 4-N)
04/08/09 House: House concurred in Governor's recommendation (93-Y 2-N)
04/08/09 Governor: Governor's recommendation adopted
04/08/09 House: Enacted, Chapter 854 (effective 7/1/09)

HB 2643 Economic development entities; extension of performance agreements.

Summary as passed: Authorizes state and local economic development entities, including any county, city or town, upon the agreement of the parties, to extend any performance agreement. The bill defines performance agreement. The bill provides that no such extension would allow for any payment or appropriation of funds except as provided in the general appropriation act.

Status:

01/23/09 House: Presented and ordered printed 091800638
01/23/09 House: Referred to Committee on General Laws
01/27/09 House: Assigned GL sub: Professional/Occupational/Administrative Process
02/04/09 House: Subcommittee recommends reporting with amendment(s)
02/05/09 House: Reported from General Laws with amendments (22-Y 0-N)
02/09/09 House: Committee amendments agreed to

02/10/09 House: Passed House BLOCK VOTE (99-Y 0-N)
02/11/09 Senate: Referred to Committee on General Laws and Technology
02/17/09 Senate: Reported from General Laws and Technology (12-Y 0-N)
02/17/09 Senate: Referred to Finance
02/18/09 Senate: Reported from Finance with amendments (16-Y 0-N)
02/23/09 Senate: Passed Senate with amendments (40-Y 0-N)
02/25/09 House: Senate amendments agreed to by House (99-Y 0-N)
02/25/09 House: VOTE: --- ADOPTION (99-Y 0-N)
03/05/09 Senate: Signed by President
03/06/09 House: Signed by Speaker
03/27/09 Governor: Approved by Governor-Chapter 224 (effective 7/1/09)

SB 980 Manufacturing Development Commission; repeals July 1, 2009, sunset date.

Summary as passed: Repeals the July 1, 2009, sunset date for the Manufacturing Development Commission. The bill would not affect a provision in the legislation that created the Commission that provides that the Commission will expire on July 1 of any fiscal year for which the Commission has not been funded through a separate appropriation in the Appropriation Act.

Status:

01/12/09 Senate: Prefiled and ordered printed; offered 01/14/09 092801340
01/12/09 Senate: Referred to Committee on Rules
02/02/09 Senate: Assigned Rules sub: Studies
02/06/09 Senate: Reported from Rules (17-Y 0-N)
02/10/09 Senate: Passed Senate (40-Y 0-N)
02/13/09 House: Referred to Committee on Rules
02/17/09 House: Reported from Rules (15-Y 0-N)
02/24/09 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
02/28/09 Senate: Enrolled
02/28/09 Senate: Bill text as passed Senate and House (SB980ER)
02/28/09 Senate: Signed by President
02/28/09 House: Signed by Speaker
03/27/09 Governor: Approved by Governor-Chapter 542 (effective 7/1/09)

SB 981 Manufacturing Development Commission; increases size to 14 members by adding a representative.

Summary as passed: Increases the size of the Commission to 14 members by adding a representative of Norfolk State University or Virginia State University as a member of the Commission.

Status:

01/12/09 Senate: Prefiled and ordered printed; offered 01/14/09 092812340
01/12/09 Senate: Referred to Committee on Rules
02/02/09 Senate: Assigned Rules sub: Studies
02/06/09 Senate: Reported from Rules (17-Y 0-N)
02/10/09 Senate: Passed Senate (40-Y 0-N)
02/13/09 House: Referred to Committee on Rules
02/17/09 House: Reported from Rules (15-Y 0-N)
02/24/09 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
02/28/09 Senate: Enrolled
02/28/09 Senate: Bill text as passed Senate and House (SB981ER)
02/28/09 Senate: Signed by President
02/28/09 House: Signed by Speaker
03/27/09 Governor: Approved by Governor-Chapter 259 (effective 7/1/09)

2009 Select VMA Defensive Bills

SB 1145 Greenhouse gas emissions; State Air Pollution Control Board to adopt regulation requiring reporting.

Summary as introduced: Requires that the State Air Pollution Control Board adopt regulations requiring the reporting of greenhouse gas emissions from stationary sources that consume carbon-emitting feedstocks. The regulations would apply only to those sources that emit more than a de minimis amount of greenhouse gas and that are already required to report emissions of other air pollutants. To the extent possible, reporting requirements will incorporate standards and protocols developed by other widely recognized and verified greenhouse gas inventory programs. Beginning in 2010, the Virginia Department of Transportation is required to provide the Department of Environmental Quality with data necessary to maintain a greenhouse gas emissions inventory for roads throughout the Commonwealth. The Board is also authorized to establish a voluntary program allowing persons to register voluntary reductions in direct or indirect emissions of greenhouse gases. The voluntary program may include the reporting of reductions in emissions from motor vehicle fleets owned by persons otherwise required to report emissions from stationary sources.

Status:

01/13/09 Senate: Prefiled and ordered printed; offered 01/14/09 093080822

01/13/09 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

02/02/09 Senate: Reported from Agriculture, Conservation and Natural Resources with substitute (8-Y 7-N)

02/04/09 Senate: Committee substitute agreed to 093139822-S1

02/09/09 Senate: Passed Senate (22-Y 18-N)

02/13/09 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

02/18/09 House: Tabled in Agriculture, Chesapeake and Natural Resources (12-Y 8-N)

HB 2202 Greenhouse gas emissions; State Air Pollution Control Board to adopt regulation requiring reporting.

Summary as introduced: Requires that the State Air Pollution Control Board adopt regulations requiring the reporting of greenhouse gas emissions from stationary sources that consume carbon-emitting feedstocks. The regulations would apply only to those sources that emit more than a de minimis amount of greenhouse gas and that are already required to report emissions of other air pollutants. To the extent possible, reporting requirements will incorporate standards and protocols developed by other widely recognized and verified greenhouse gas inventory programs. Beginning in 2010, the Virginia Department of Transportation is required to provide the Department of Environmental Quality with data necessary to maintain a greenhouse gas emissions inventory for roads throughout the Commonwealth. The Board is also authorized to establish a voluntary program allowing persons to register voluntary reductions in direct or indirect emissions of greenhouse gases. The voluntary program may include the reporting of reductions in emissions from motor vehicle fleets owned by persons otherwise required to report emissions from stationary sources.

Status:

01/14/09 House: Prefiled and ordered printed; offered 01/14/09 093079822

01/14/09 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

02/04/09 House: Tabled in Agriculture, Chesapeake and Natural Resources by voice vote

SB 1248 Electrical generation; base rates of return for certain types thereof.

Summary as passed: Authorizes investor-owned electric utilities to recover, through a rate adjustment clause, the projected and actual costs of designing, implementing, and operating energy efficiency programs and fair and effective peak-shaving programs. The utility may earn a general rate of return on energy efficiency programs. The State Corporation Commission may allow for the recovery of reductions in revenue related to energy efficiency programs, to the extent the revenue is not recovered through off-system sales. Certain large general service customers may be exempted from paying the costs of such energy efficiency programs. The measure also requires electric cooperatives to file assessments of impediments to their implementation of certain rate initiatives.

Status:

01/14/09 Senate: Prefiled and ordered printed; offered 01/14/09 090111802
01/14/09 Senate: Referred to Committee on Commerce and Labor
01/23/09 Senate: Assigned C&L sub: Utilities
02/09/09 Senate: Reported from Commerce and Labor with substitute (10-Y 5-N)
02/10/09 Senate: Committee substitute agreed to 090223286-S1
02/10/09 Senate: Passed Senate (28-Y 12-N)
02/13/09 House: Referred to Committee on Commerce and Labor
02/19/09 House: Reported from Commerce and Labor with substitute (21-Y 1-N)
02/24/09 House: Committee substitute agreed to 090243286-H1
02/24/09 House: VOTE: --- PASSAGE (99-Y 0-N)
02/25/09 Senate: House substitute agreed to by Senate (37-Y 0-N)
03/05/09 Senate: Signed by President
03/06/09 House: Signed by Speaker
03/30/09 Senate: Governor's recommendation received by Senate
04/08/09 Senate: Senate concurred in Governor's recommendation (22-Y 18-N)
04/08/09 House: House rejected Governor's recommendation (47-Y 50-N)
04/08/09 House: Communicated to Governor

HB 2506 Energy efficiency programs; investor-owned electric utilities to recover costs of designing, etc.

Summary as passed: Authorizes investor-owned electric utilities to recover, through a rate adjustment clause, the costs of designing and operating energy efficiency programs that have the effect of producing measured and verified reductions in the amount of electricity required. The utility may earn a general rate of return on energy efficiency programs. The State Corporation Commission may allow for the recovery of reductions in revenue related to energy efficiency programs, to the extent the revenue is not recovered through off-system sales. The costs of new energy efficiency programs shall not be assigned to any large general service customer that has implemented energy efficiency measures. [HB 2176](#) is incorporated.

Status:

01/15/09 House: Presented and ordered printed 094444690
01/15/09 House: Referred to Committee on Commerce and Labor
01/26/09 House: Assigned C & L sub: 3 Energy
02/04/09 House: Subcommittee recommends reporting with amendment(s)
02/05/09 House: Reported from Commerce and Labor with substitute (20-Y 0-N)
02/09/09 House: Committee substitute agreed to 090218690-H1
02/10/09 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
02/11/09 Senate: Referred to Committee on Commerce and Labor
02/23/09 Senate: Reported from Commerce and Labor with substitute (12-Y 3-N)
02/26/09 Senate: Committee substitute agreed to 090245690-S1
02/26/09 Senate: Amendment by Senator Watkins rejected
02/26/09 Senate: Passed Senate with substitute (20-Y 18-N)
02/26/09 Senate: Reconsideration of Senate passage agreed to by Senate (38-Y 0-N)
02/26/09 Senate: Passed Senate with substitute (20-Y 18-N)
02/26/09 House: Senate substitute rejected by House (1-Y 74-N)
02/26/09 House: VOTE: --- REJECTED (1-Y 74-N)
02/26/09 Senate: Senate insisted on substitute (38-Y 0-N)
02/26/09 Senate: Senate requested conference committee
02/26/09 House: House acceded to request
02/26/09 House: Conferees appointed by House
02/26/09 House: Delegates: Pollard, Kilgore, Hogan
02/26/09 Senate: Conferees appointed by Senate
02/26/09 Senate: Senators: Herring, McEachin, Watkins
02/28/09 House: Conference report agreed to by House (98-Y 1-N)

02/28/09 House: VOTE: --- ADOPTION (98-Y 1-N)
02/28/09 Senate: Conference report agreed to by Senate (22-Y 18-N)
03/09/09 Senate: Signed by President
03/11/09 House: Signed by Speaker
03/30/09 House: Governor's recommendation received by House
04/08/09 House: Amendments specific and severable
04/08/09 House: House concurred in Governor's recommendation amendments #'s 1 and 3 (91-Y 1-N)
04/08/09 House: House concurred in Governor's recommendation amendment #2 (47-Y 44-N)
04/08/09 Senate: Senate concurred in Governor's recommendation amendments #s 1 and 2 (39-Y 1-N)
04/08/09 Senate: Senate concurred in Governor's recommendation amendment #3 (23-Y 17-N)
04/08/09 Governor: Governor's recommendation adopted
04/08/09 House: Enacted, Chapter 823 (effective 7/1/09)

SB 821 Workers' compensation; presumption that injury arises out of employment.

Summary as introduced: Creates a presumption that a workplace injury results from an accident arising out of employment for purposes of the Workers' Compensation Act if the employee is found dead or to have incurred a brain injury resulting from external mechanical force that impairs the employee's brain function to such an extent that the employee is incapable of recalling the relevant circumstances of the accident. A judicially created presumption currently exists when an employee is found dead as the result of an accident at his place of work and there is no evidence offered to show what caused the death or to show that he was not engaged in his employer's business at the time.

Status:

12/09/08 Senate: Prefiled and ordered printed; offered 01/14/09 090686333
12/09/08 Senate: Referred to Committee on Commerce and Labor
01/26/09 Senate: Failed to report (defeated) in Commerce and Labor (4-Y 11-N)

SB 885 Drug-related personal injury actions; extends two-year statute of limitations.

Summary as introduced: Extends the two-year statute of limitations for personal injury actions in cases where the injury (i) is latent or by its nature not discoverable at the time of its occurrence and (ii) is the result of the ingestion of or exposure to a drug for a period of one year from the date the injury is discovered or reasonably should have been discovered.

Status:

12/31/08 Senate: Prefiled and ordered printed; offered 01/14/09 090261273
12/31/08 Senate: Referred to Committee for Courts of Justice
01/13/09 Senate: Assigned Courts sub: Civil
02/09/09 Senate: Passed by indefinitely in Courts of Justice (15-Y 0-N)

SB 987 Retail Sales and Use Tax; requirements for dealer or direct permit holder discount.

Summary as introduced: Eliminates dealer tax and fee discounts and allowances for the retail sales and use tax, tire recycling fee, communications sales and use tax, cigarette and tobacco products tax, E-911 service tax, and fuels taxes.

Status:

01/12/09 Senate: Prefiled and ordered printed; offered 01/14/09 091924818
01/12/09 Senate: Referred to Committee on Finance
02/03/09 Senate: Reported from Finance with substitute (15-Y 1-N)
02/05/09 Senate: Committee substitute agreed to 092911212-S1
02/06/09 Senate: Passed Senate (28-Y 10-N)
02/11/09 House: Referred to Committee on Appropriations
02/13/09 House: Assigned App. sub: Technology Oversight & Government Activities (Landes)
02/28/09 House: Left in Appropriations

HB 1703 Indoor Clean Air Act; prohibits smoking in certain public buildings, restaurants, etc., exceptions.

Summary as passed: Establishes a statewide ban on smoking in restaurants. The bill contains several exemptions from this prohibition where smoking may be permitted, including a restaurant that is constructed in such a manner that areas where smoking may be permitted are structurally separated from the portion of the restaurant in which smoking is prohibited and such areas are separately vented. The bill contains technical amendments.

Status:

01/05/09 House: Prefiled and ordered printed; offered 01/14/09 098296472
01/05/09 House: Referred to Committee on General Laws
02/06/09 House: Reported from General Laws with substitute (12-Y 6-N)
02/09/09 House: Committee substitute agreed to 091848584-H1
02/09/09 House: Amendment #1 by Delegate Kilgore agreed to
02/09/09 House: Amendment #2 by Delegate Kilgore agreed to
02/09/09 House: Amendment #3 by Delegate Kilgore agreed to
02/09/09 House: Amendment #4 by Delegate Kilgore agreed to
02/09/09 House: Amendments #'s 5, 6, and 7 by Delegate Kilgore agreed to
02/09/09 House: Amendment by Delegate Gear rejected
02/09/09 House: Amendment by Delegate Kilgore agreed to
02/10/09 House: VOTE: --- PASSAGE (61-Y 37-N)
02/11/09 Senate: Referred to Committee on Local Government
02/17/09 Senate: Reported from Local Government (8-Y 7-N)
02/18/09 Senate: Motion to rerefer to committee agreed to
02/18/09 Senate: Rereferred to Education and Health
02/19/09 Senate: Reported from Education and Health with substitute (12-Y 3-N)
02/24/09 Senate: Committee substitute agreed to 091852584-S1
02/24/09 Senate: Passed Senate with substitute (26-Y 13-N)
02/26/09 House: Senate substitute agreed to by House 091852584-S1 (60-Y 37-N)
02/26/09 House: VOTE: --- ADOPTION (60-Y 37-N)
03/04/09 Senate: Signed by President
03/06/09 House: Signed by Speaker
03/09/09 Governor: Approved by Governor-Chapter 153 (effective 12/1/09)

SB 1105 Indoor Clean Air Act; prohibits smoking in certain public buildings, restaurants, etc., exceptions.

Summary as passed: Establishes a statewide ban on smoking in restaurants. The bill contains several exemptions from this prohibition where smoking may be permitted, including a restaurant that is constructed in such a manner that areas where smoking may be permitted are structurally separated from the portion of the restaurant in which smoking is prohibited and such areas are separately vented. The bill contains technical amendments.

Status:

01/13/09 Senate: Prefiled and ordered printed; offered 01/14/09 090671286
01/13/09 Senate: Referred to Committee on Local Government
01/27/09 Senate: Rereferred from Local Government (15-Y 0-N)
01/27/09 Senate: Rereferred to Education and Health
01/28/09 Senate: Assigned Education sub: Special on Smoking
01/29/09 Senate: Reported from Education and Health with substitute (11-Y 3-N)
02/02/09 Senate: Committee substitute agreed to 094138286-S1
02/03/09 Senate: Passed Senate (26-Y 13-N)
02/04/09 House: Referred to Committee on General Laws
02/06/09 House: Reported from General Laws with substitute (12-Y 6-N)
02/09/09 House: Pursuant to House Rule 52 motion to take out of order agreed to (96-Y 0-N)

02/09/09 House: VOTE: --- AGREE TO MOTION (96-Y 0-N)
02/09/09 House: Committee substitute agreed to 091847286-H1
02/09/09 House: Amendments by Delegate Kilgore agreed to
02/09/09 House: Amendments by Delegate Gear rejected
02/09/09 House: Passed House with substitute with amendments (59-Y 39-N)
02/09/09 House: VOTE: --- PASSAGE (59-Y 39-N)
02/16/09 Senate: House substitute agreed to by Senate (29-Y 9-N)
02/16/09 Senate: House amendments rejected by Senate (11-Y 28-N)
02/17/09 House: House insisted on amendments
02/17/09 House: House requested conference committee
02/17/09 Senate: Senate acceded to request (33-Y 7-N)
02/17/09 Senate: Conferees appointed by Senate
02/17/09 Senate: Senators: Northam, Locke, Quayle
02/18/09 House: Conferees appointed by House
02/18/09 House: Delegates: Cosgrove, Jones, Eisenberg
02/19/09 Senate: Conference report agreed to by Senate (27-Y 13-N)
02/19/09 House: Conference report agreed to by House (60-Y 39-N)
02/19/09 House: VOTE: --- ADOPTION (60-Y 39-N)
03/04/09 Senate: Signed by President
03/06/09 House: Signed by Speaker
03/09/09 Governor: Approved by Governor-Chapter 154 (effective 12/1/09)

SB 1057 Smoke Free Air Act; smoking in public places, civil penalties.

Summary as introduced: Moves the law restricting smoking in buildings and other enclosed areas from the title relating to local government (15.2) to the title relating to health (32.1) and prohibits smoking indoors in most buildings or enclosed areas frequented by the public. Exceptions are provided for (i) private homes, private residences, private automobiles, and home-based businesses, unless used in conjunction with a licensed child care, adult day care, or health care facility; (ii) private clubs, except when being used for functions attended by persons other than members and invited guests; (iii) hotel or motel rooms designated as smoking rooms that are offered for rent to the public; (iv) specialty tobacco stores; (v) tobacco manufacturers; and (vi) private and semiprivate rooms in nursing homes and long-term care facilities. The bill requires the posting of "No Smoking" signs inside and at the entrances of areas where smoking is prohibited. Any person who continues to smoke in an area in which smoking is prohibited will be subject to a civil penalty of not more than \$100 for the first offense, and \$250 for subsequent offenses. Failure to comply with the smoking restrictions will subject proprietors to a \$200 civil penalty for the first offense and \$500 for subsequent offenses.

Status:

01/13/09 Senate: Prefiled and ordered printed; offered 01/14/09 094035352
01/13/09 Senate: Referred to Committee on Education and Health
01/13/09 Senate: Assigned Education sub: Special on Smoking
01/29/09 Senate: Reported from Education and Health (11-Y 3-N)
02/03/09 Senate: Passed Senate (24-Y 15-N)
02/04/09 House: Referred to Committee on General Laws
02/06/09 House: Incorporated by General Laws (SB1105-Northam) by voice vote

HB 1704 Smoke Free Air Act; smoking in public places, civil penalties.

Summary as introduced: Moves the law restricting smoking in buildings and other enclosed areas from the title relating to local government (15.2) to the title relating to health (32.1) and prohibits smoking indoors in most buildings or enclosed areas frequented by the public. Exceptions are provided for (i) private homes, private residences, and private automobiles, and home-based businesses, unless used in conjunction with a licensed child care, adult day care, or health care facility; (ii) private clubs, except when being used for functions attended by persons other than members and invited guests; (iii) hotel or motel rooms designated as smoking rooms that are offered for rent to the public; (iv) specialty tobacco stores; (v) tobacco manufacturers; and (vi)

private and semiprivate rooms in nursing homes and long-term care facilities. The bill requires the posting of "No Smoking" signs inside and at the entrances of areas where smoking is prohibited. Any person who continues to smoke in an area in which smoking is prohibited will be subject to a civil penalty of not more than \$100 for the first offense, and \$250 for subsequent offenses. Failure to comply with the smoking restrictions will subject proprietors to a \$200 civil penalty for the first offense and \$500 for subsequent offenses.

Status:

01/05/09 House: Prefiled and ordered printed; offered 01/14/09 097611540

01/05/09 House: Referred to Committee on General Laws

02/05/09 House: Incorporated by General Laws (HB1703-Cosgrove) by voice vote

HB 1692 Indoor Clean Air Act; prohibits smoking in all indoor restaurants and bar and lounge areas in State.

Summary as introduced: Moves the regulation of smoking in restaurants from Title 15.2 to a new chapter in Title 32.1. This bill prohibits smoking in all indoor restaurants and bar and lounge areas in the Commonwealth. Requires the posting of "No Smoking" signs and provides for a \$25 civil penalty for a violation of these provisions.

Status:

01/05/09 House: Prefiled and ordered printed; offered 01/14/09 093220500

01/05/09 House: Referred to Committee on General Laws

02/05/09 House: Incorporated by General Laws (HB1703-Cosgrove) by voice vote

SB 971 Plastic bags; requires that certain stores provide on-premises recycling, therefore.

Summary as introduced: Requires that, effective January 1, 2010, certain stores provide on-premises recycling for plastic bags. Stores that are part of a chain or occupy more than 5,000 square feet and distribute plastic bags to consumers must provide reusable bags for sale and take back and recycle used plastic bags. If requested by a store owner, the manufacturer of plastic bags must offer to arrange for the transportation and recycling services. Any violation is punishable by a civil penalty of up to \$100.

Status:

01/12/09 Senate: Prefiled and ordered printed; offered 01/14/09 097751204

01/12/09 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

01/19/09 Senate: Stricken at request of Patron in Agriculture, Conservation and Natural Resources (14-Y 0-N)

SB 873 Plastic bags; bans use by retailers at point of sale unless designed & manufactured for reuse.

Status:

12/29/08 Senate: Prefiled and ordered printed; offered 01/14/09 098240336

12/29/08 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

02/11/09 Senate: Left in Agriculture, Conservation and Natural Resources

HB 1814 Plastic bags; bans use by retailers at point of sale unless designed & manufactured for reuse.

Summary as introduced: Bans the use of plastic carryout bags by retailers at the point of sale unless such bags are (i) durable plastic bags with handles; (ii) at least 2.25 mils thick; and (iii) specifically designed and manufactured for multiple reuse.

Status:

01/12/09 House: Prefiled and ordered printed; offered 01/14/09 098542653

01/12/09 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

02/10/09 House: Left in Agriculture, Chesapeake and Natural Resources

HB 2010 Paper and plastic bags; imposes fee on those used by purchasers to carry tangible personal property.

Summary as introduced: Imposes a fee of \$0.05 on paper and plastic bags used by purchasers to carry tangible personal property from the place of purchase. Durable, reusable plastic bags and bags used for ice cream, meat,

fish, and poultry are exempt from the fee. The revenues raised by the fee will be deposited in the Water Quality Improvement Fund.

Status:

01/13/09 House: Prefiled and ordered printed; offered 01/14/09 091933492

01/13/09 House: Referred to Committee on Finance

01/16/09 House: Assigned Finance sub: 3

01/28/09 House: Subcommittee recommends laying on the table by voice vote

02/10/09 House: Left in Finance

APPENDIX A

2009 Unemployment Compensation Bills

Issue: During the 2009 Session, no bills were passed that would qualify Virginia for \$125 million in “stimulus package” funds from the Federal Government.

Challenge:

1. In order to receive the \$125 million in FUTA money, Virginia lawmakers were asked to permanently EXPAND Virginia’s UI laws for a temporary benefit. When the FUTA monies run out, Virginia employers would be left with the bill. That’s not a good trade off.
2. The effect of these provisions, individually and cumulatively, was not well known at the time, but eventually they would have increased Virginia’s taxes on jobs and employers, and deplete the state’s UI trust fund. We know now – for example - that even without these changes, the state’s trust fund solvency level will dip to 20% by June 2010, and that by next year Virginia will start borrowing money from the federal government to pay existing – not expanded - benefits. We also know now that the average state tax on jobs – even without these changes – will go from \$98 per job this year to \$159 per job next year, and to \$199 per job in 2012. These changes will not help this situation when the federal monies run out.
3. The four “incentive” provisions were an inappropriate use of the federal/state UI system which is designed to provide temporary partial wage replacement to individuals who become unemployed through no fault of their own and who are able to work, available for work, and are actively seeking suitable full-time work. If there is a need for expanded family support programs, for example, they should be addressed within the context of the array of public assistance and social service programs enacted since 1935 – not unemployment insurance.

Background: During the 2009 General Assembly session, the U.S. Congress and President made \$187.5 million available to Virginia, under the American Recovery & Reinvestment Act of 2009 (the “stimulus package”), if it would permanently increase unemployment benefit payments and provide “incentives” for states to expand the number of individuals who qualify for unemployment compensation.

The latter “incentives” provision transfers \$7 billion in FUTA funds to state accounts if states enact or already have certain state UI laws in place. Of this amount, the Virginia Employment Commission (VEC) estimates Virginia could receive approximately \$187.5 million if all the conditions are met.

To “qualify” for these “incentive” payments, a state must have an alternative base period which would entitle it to one-third of its share. Virginia enacted this provision in 2003, therefore, it was already eligible to receive \$62.5 million.

In order to receive the remaining two-thirds of the funding, or approximately \$125 million, the General Assembly was asked to expand state UI law by passing at least two of the following four provisions:

1. Provide benefits to former part-time workers who seek part-time work;
2. Provide benefits for voluntary separations from work for “compelling family reasons”. These reasons must:
 - a. Include domestic violence;
 - b. Include illness or disability of an immediate family member;
 - c. The need to accompany a spouse to a place from where it is impractical to commute and due to a change in the location of the spouse’s employment (i.e., trailing spouse);

3. Provide additional benefits (up to 26 weeks) to individuals who have exhausted their regular benefits but are enrolled in a state-approved training program or in a job training program authorized under the Workforce Investment Act. This benefit must prepare the individual for entry into a “high-demand” occupation; and
4. Provide dependent allowances to UI recipients with children.

Solution: The VMA took the position, along with others in the business community, that Virginia should take the \$62.5 million that came without strings, but reject the additional \$125 million. Further, the VMA and others made several joint statements that a better and preferred solution would have been a significant distribution of FUTA funds to state unemployment trust funds - with no federal strings attached - to bolster the solvency of state unemployment trust funds. This approach was suggested as the stimulus package was assembled – and rejected – because the majority party [in Congress] believed that long-term state benefit expansions needed to ride with any additional distributions to states. In other words, Congressional Democrats offered Virginians expanded Unemployment Insurance benefits in order to force states to change their own UI laws during a time of crisis. The Virginia business community demonstrated great solidarity in this matter and, ultimately, Congress did not loosen its demands on states and, instead, insisted on its ideological approach to UI assistance.

The following UI bills PASSED:

HB 1889 Unemployment benefits; minimum earnings requirement.

Summary as passed: Postpones the scheduled increase, from \$2,700 to \$3,000, in the minimum amount of wages an employee must have earned in the two highest earnings quarters of his base period in order to be eligible for unemployment benefits. The increase will apply to claims filed on or after July 4, 2010; it is currently scheduled to apply to claims filed on or after July 5, 2009.

SB 1495 Unemployment compensation; voluntarily leaving employment to accompany military spouse.

Summary as passed: Provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany the employee's spouse, who is on active duty in the military or naval services of the United States, to a new military-related assignment established pursuant to a permanent change of duty order from which the employee's place of employment is not reasonably accessible. The measure applies only if the state to which the spouse is transferred has a similar provision, unless the transfer involves members of the Virginia National Guard relocated within the Commonwealth. Benefits paid to qualifying claimants shall be charged against the pool rather than against the claimant's employer. The measure shall become effective if the federal government appropriates funds for this purpose.

The following bills FAILED:

HB 1816 Unemployment benefits; eligibility of seasonal or temporary workers.

Summary as introduced: Disqualifies an unemployed individual for unemployment compensation benefits if he was provided with written notice, and signed an acknowledgment of receipt of such notice, by his employer stating that his employment is temporary or seasonal and will terminate by a date certain or upon the completion of seasonal work specified in the written notice.

HB 2046 Unemployment compensation; employees at seasonal establishment shall not be paid benefits.

Summary as introduced: Authorizes the Virginia Employment Commission to designate, upon an employer's application, that an employer's establishment is a seasonal establishment that customarily operates only during a regularly occurring period of between 13 and 40 weeks in any 12-month period. Employees at a seasonal establishment shall not be paid unemployment benefits with respect to employment that was performed at a seasonal establishment during the establishment's operating season, if (i) his employment terminated when the

