

## **HIGHWAYS, BRIDGES AND FERRIES: OUTDOOR ADVERTISING IN SIGHT OF PUBLIC HIGHWAYS.**

**Class 2, on-premises signs requirements apply to those signs adjacent to interstate, national highway system or federal-aid primary highway; three additional requirements limiting number, location and type of advertisement apply to such signs located adjacent to and within 660 feet of interstate highway.**

The Honorable Kevin G. Miller

Member, Senate of Virginia

January 25, 1996

You ask whether the provisions of § 33.1370 of the *Code of Virginia* pertaining to Class 2, on-premises signs are applicable to signs located adjacent to highways that are part of any national highway system and federal-aid primary highway or only to signs located adjacent to any interstate highway.<sup>1</sup>

You note that the term "interstate" is used four times without the terms "national highway system" or "federal-aid primary highway" within the Class 2, on-premises signs requirements in § 33.1370. You also note that throughout the remainder of § 33.1370, the term "interstate" is used in conjunction with the terms "national highway system" or "federal-aid primary highway."

Section 33.1370(A) does not permit any sign to be erected that is visible from and adjacent to (within 660 feet) an interstate, national highway system or federal-aid primary highway, except as permitted by § 33.1370(B). An on-premises sign, however, that is "located adjacent to and within 660 feet of any interstate highway" is subject to three additional requirements enumerated in § 33.1370(B).

It is well-settled that "[i]f the language of a statute is plain and unambiguous, and its meaning perfectly clear and definite, effect must be given to it."<sup>2</sup> It is unnecessary to resort to any rules of statutory construction when the language of a statute is unambiguous.<sup>3</sup> In those situations, the statute's plain meaning and intent govern. It is clear, and consequently it is my opinion, that the requirements of § 33.1370(B) pertaining to Class 2, on-premises signs apply to those signs adjacent to any interstate, national highway system or federal-aid primary highway, and that there are three additional requirements that apply to such signs "located adjacent to and within 660 feet of any interstate highway."

<sup>1</sup>Section 33.1370 provides, in part:

"A. Notwithstanding the territorial limitation set out in § 33.1353, *no sign or advertisement adjacent to any interstate, national highway system, or federal-aid primary*

*highway shall be erected, maintained or displayed* which is visible from the main traveled way within 660 feet of the nearest edge of the right-of-way, *except as provided in subsection[ ] B ... of this section[.]*

"B. The following signs, advertisements or advertising structures may be erected, maintained and displayed within 660 feet of the right-of-way of *any interstate, national highway system, or federal-aid primary highway*:

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"Class 2-On-premises signs.-Signs not prohibited by other parts of [Article 1, Chapter 7 of Title 33.1, e.g., signs listed in § 33.1369] which are consistent with the applicable provisions of this section and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located; provided, that any such signs, which are located adjacent to and within 660 feet of any interstate highway and do not lie in commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or in areas where land use as of September 21, 1959, was clearly established by state law as industrial or commercial, shall comply with [three additional requirements limiting number and location of, and type of advertisement appearing on, such on-premises signs]." (Emphasis added.)

<sup>2</sup>*Temple v. City of Petersburg*, 182 Va. 418, 423, 29 S.E.2d 357, 358 (1944); *see also* 1993 Op. Va. Att'y Gen. 256, 257.

<sup>3</sup>*See Ambrogi v. Koontz*, 224 Va. 381, 386, 297 S.E.2d 660, 662 (1982); 1993 Op. Va. Att'y Gen. 99, 100.