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SENATE BILL NO. 1291

Senate Amendments in [] — February 5, 2001

A BILL to amend and reenact § 46.2-819.1 of the Code of Virginia, relating to use of photo-monitoring systems to monitor payment of tolls; penalties.

Patron Prior to Engrossment—Senator Mims

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-819.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-819.1. Installation and use of photo-monitoring system in conjunction with certain toll facilities; penalty.

A. The operator of any toll facility or the locality within which such toll facility is located may install and operate or cause to be installed and operated a photo-monitoring system at locations where tolls are collected for the use of such toll facility. *The operator of a toll facility may send an invoice or bill to the registered owner of a vehicle as part of an electronic [or manual] toll collection process, prior to seeking remedies under this section.*

B. The operator of a vehicle shall be liable for a civil penalty of no more than twenty-five dollars for a first offense or no more than fifty dollars for any subsequent offense if the vehicle is found, as evidenced by information obtained from a photo-monitoring system as provided in this section, to have used such a toll facility without payment of the required toll.

C. Proof of a violation of this section shall be evidenced by information obtained from a photo-monitoring system as provided in this section. A certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this section.

D. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection G of this section was operated in violation of this section.

Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued pursuant to subsection G of this section was in violation of this section, the court shall impose a civil penalty upon the registered owner of such vehicle in accordance with the amounts specified in subsection B of this section. Such civil penalty shall constitute a lien on such vehicle, subordinate to any other liens on the vehicle, unless such civil penalty is paid to the court within thirty days of imposition of such civil penalty.

The registered owner of such vehicle shall be given reasonable notice by way of a summons as provided in subsection G of this section that his vehicle had been used in violation of this section and such owner shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

Such summons shall be dismissed upon the filing of an affidavit by the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the violation.

In addition thereto, if the registered owner of the vehicle produces a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense, then the court shall dismiss the summons.

E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company. For purposes of this section, "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section.

F. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such civil penalty is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed

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59 by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the
60 records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of
61 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
62 manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing
63 shall be instituted for failure to appear on the return date of the summons.

64 H. The operator of a toll facility may enter into an agreement with the Department of Motor
65 Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain
66 vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for
67 the use of toll facilities.

68 I. Where any photo-monitoring system provided for in this section is in operation, no person shall be
69 subject to both the provisions of this section and to prosecution under § 46.2-819 for actions arising out
70 of the same transaction or occurrence.