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SENATE BILL NO. 522

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 8, 2002)

(Patron Prior to Substitute—Senator Mims)

A BILL to amend and reenact § 46.2-492 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-868.1, establishing the offense of aggressive driving; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-492 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 46.2-868.1 as follows:

§ 46.2-492. Uniform Demerit Point System.

A. The Commissioner shall assign point values to those convictions, or findings of not innocent in the case of a juvenile, which are required to be reported to the Department in accordance with § 46.2-383 for traffic offenses committed in violation of the laws of the Commonwealth or any county, city, or town ordinance paralleling and substantially conforming to state law, provided that no conviction, or finding of not innocent in the case of a juvenile for any offense, relating to registration, insurance, or equipment shall be included except as otherwise provided by this title.

B. The Commissioner shall assign point values to those convictions received from any other state of the United States, the United States, Canada or its provinces, or any territorial subdivision of any of them, of an offense therein, which if committed in this Commonwealth, would be required to be reported to the Department by § 46.2-383.

C. No point assignment shall be made for any conviction which results from a vehicle having been parked or stopped, in order for the driver to sleep or rest, on the shoulder or other portion of a highway not ordinarily used for vehicular traffic. The court shall make a separate finding on this issue and note such finding on the conviction record.

D. The Uniform Demerit Point System standard for rating convictions of traffic offenses shall be based on the severity of the offense and the potential hazardous exposure to other users of the highways and streets. The Commissioner shall designate the point values assigned to convictions, or findings of not innocent in the case of a juvenile, on a graduated scale not to exceed six demerit points for any single conviction. The Commissioner shall develop point system assignments as follows:

1. Serious traffic offenses such as driving while intoxicated in violation of § 18.2-266, persons under age twenty-one driving after illegally consuming alcohol in violation of § 18.2-266.1, reckless driving in violation of § 46.2-852, speeding twenty or more miles per hour above the posted speed limit, racing in violation of § 46.2-865, and other serious traffic offenses as the Commissioner may designate, shall be assigned six demerit points.

2. Relatively serious traffic offenses such as failure to yield the right-of-way in violation of §§ 46.2-820 through 46.2-823, speeding between ten and nineteen miles per hour above the posted speed limit, following too closely in violation of § 46.2-816, failure to stop when entering a highway in violation of § 46.2-863, *aggressive driving in violation of § 46.2-868.1* and other relatively serious traffic offenses as the Commissioner may designate, shall be assigned four demerit points.

3. Traffic offenses of a less serious nature such as improper driving in violation of § 46.2-869, speeding between one and nine miles per hour above the posted speed limit, improper passing in violation of § 46.2-838, failure to obey a highway sign in violation of § 46.2-830 and other offenses of a less serious nature as the Commissioner may designate, shall be assigned three demerit points.

E. When a person is convicted of two or more traffic offenses committed on a single occasion, he shall be assessed points for one offense only and if the offenses involved have different point values, he shall be assessed points for the offense having the greater point value.

§ 46.2-868.1. *Aggressive driving; penalties.*

A. A person is guilty of aggressive driving if (i) the person violates one or more of the following: § 46.2-802 (Drive on right side of highways), § 46.2-804 (Failure to observe lanes marked for traffic), § 46.2-816 (Following too closely), § 46.2-821 (Vehicles before entering certain highways shall stop or yield right-of-way), § 46.2-833.1 (Evasion of traffic control devices), § 46.2-838 (Passing when overtaking a vehicle), § 46.2-841 (When overtaking vehicle may pass on right), § 46.2-842 (Driver to give way to overtaking vehicle), § 46.2-842.1 (Driver to give way to certain overtaking vehicles on divided highway), § 46.2-843 (Limitations on overtaking and passing), any provision of Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2 (Speed), or § 46.2-888 (Stopping on highways); and (ii) that person is a hazard to another person or commits an offense in clause (i) with the intent to harass, intimidate, injure or obstruct another person.

B. Aggressive driving shall be punished as a Class 2 misdemeanor. However, aggressive driving with

60 *the intent to injure another person shall be punished as a Class 1 misdemeanor. In addition to the*
61 *penalties described in this subsection, the court may require successful completion of an aggressive*
62 *driving program.*