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HOUSE BILL NO. 1430

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 6, 2003)

(Patrons Prior to Substitute—Delegates Albo and DeVolites [HB 2298])

A BILL to amend and reenact § 46.2-882 of the Code of Virginia, relating to determining speed of vehicle with various devices; certificate as to accuracy of device.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-882 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest without warrant.

The speed of any motor vehicle may be determined by the use of (i) a laser speed determination device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and both measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle, or (iv) a microcomputer device that is located aboard an airplane or helicopter and measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle being operated on highways within the Interstate System of highways as defined in § 33.1-48. The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any laser speed determination device, radar, or microcomputer device as described in this section used to determine the speed of any motor vehicle, a certificate, or a true copy thereof, showing the calibration or accuracy of (i) the speedometer of any vehicle, ~~or of~~ (ii) any tuning fork employed in calibrating or testing the radar or other speed determination device or (iii) any other method employed in calibrating or testing any laser, ~~microcomputer or other speed determination device~~, and when and by whom the calibration was made, shall be admissible as evidence of the facts therein stated. No calibration or testing of such device shall be valid for longer than ~~six~~ 6 months.

The driver of any such motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform and displays his badge of authority and if the officer has observed the registration of the speed of such motor vehicle by the laser speed determination device, radar, or microcomputer device as described in this section, or has received a radio message from the officer who observed the speed of the motor vehicle registered by the laser speed determination device, radar, or microcomputer device as described in this section. However, in case of an arrest based on such a message, such radio message shall have been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.

Neither State Police officers nor local law-enforcement officers shall use laser speed determination devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed of motor vehicles.

State Police officers may use laser speed determination devices, radar, and/or microcomputer devices as described in this section. All localities may use radar; (i) counties having populations of at least 85,000 but less than 150,000 and towns within such counties; (ii) counties having populations of at least 68,000 but less than 73,000; (iii) counties having populations of at least 79,000 but less than 86,000, (iv) towns having populations of at least 14,000 but less than 15,000 and located within a county operating under the urban county executive form of government; (v) counties having the county manager form of government; (vi) counties having populations of at least 61,000 but less than 63,000; (vii) cities having populations of at least 40,000 but less than 50,000; and (viii) Culpeper County and towns located therein may use laser speed determination devices to measure speed. Any county, city or town located within the boundaries of Planning District No. 8 may use laser speed determination devices, radar, or both to measure speed. The Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within such counties may use microcomputer devices as described in this section.

The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials of the same. Police chiefs and sheriffs shall ensure that all such equipment and devices purchased on or after July 1, 1986, meet or exceed the standards established by the Division. Law-enforcement officers using motor vehicle-based microcomputer devices or laser speed determination devices as provided for in this section shall, on request of any affected motorist, permit such motorist to observe the reading on the device. Nothing in this section, however, shall require any law-enforcement officer to allow affected

60 motorists to observe any reading on any microcomputer device on any airplane or helicopter.