

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 947

An Act to amend and reenact §§ 46.2-808, 46.2-838, 46.2-839, 46.2-849, 46.2-905, 46.2-906.1, 46.2-932, 46.2-1015, and 46.2-1051 of the Code of Virginia, relating to motor vehicles overtaking and passing other vehicles; operation of bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds; and over-the-road operation of bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, roller skates, skateboards, or toys for transportation purposes.

[H 552]

Approved April 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-808, 46.2-838, 46.2-839, 46.2-849, 46.2-905, 46.2-906.1, 46.2-932, 46.2-1015, and 46.2-1051 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-808. Commonwealth Transportation Board may prohibit certain uses of controlled access highways; penalty.

A. The Commonwealth Transportation Board may, when necessary to promote safety, prohibit the use of controlled access highways or any part thereof by any or all of the following:

1. Pedestrians,
2. Persons riding bicycles, *electric power-assisted bicycles, electric personal assistive mobility devices, or mopeds,*
3. Horse-drawn vehicles,
4. Self-propelled machinery or equipment, and
5. Animals led, ridden or driven on the hoof.

B. The termini of any section of controlled access highways, use of which is restricted under the provisions of this section, shall be clearly indicated by a conspicuous marker.

C. This section shall not apply to any vehicle or equipment owned or controlled by the Virginia Department of Transportation, while actually engaged in the construction, reconstruction, or maintenance of highways or to any vehicle or equipment for which a permit has been obtained for operation on such highway.

Any person violating a restriction or prohibition imposed pursuant to this section shall be guilty of a traffic infraction.

§ 46.2-838. Passing when overtaking a vehicle.

The driver of any vehicle overtaking another ~~motor~~ vehicle proceeding in the same direction shall pass at least two feet to the left of the overtaken vehicle and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle, except as otherwise provided in this article.

§ 46.2-839. Passing bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

~~In approaching or passing a person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal or animal-drawn vehicle, the driver of a motor vehicle shall pass at a safe distance and at a reasonable speed. Any driver of any vehicle overtaking a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle proceeding in the same direction shall pass at a reasonable speed at least two feet to the left of the overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle and shall not again proceed to the right side of the highway until safely clear of such overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.~~

§ 46.2-849. How signals given.

A. Signals required by § 46.2-848 shall be given by means of the hand and arm or by some mechanical or electrical device approved by the Superintendent, in the manner specified in this section. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, turn, or partly turn by extending the hand and arm beyond the left side of the vehicle in the manner following:

1. For left turn or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder;
2. For right turn or to pull to the right, the arm shall be extended upward;
3. For slowing down or stopping, the arm shall be extended downward.

B. Wherever the lawful speed is more than 35 miles per hour, such signals shall be given continuously for a distance of at least 100 feet, and in all other cases at least ~~fifty~~ 50 feet, before slowing down, stopping, turning, or partly turning.

C. A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall signal his intention to stop or turn. Such signals, however, need not be given continuously if both hands are needed in the control or operation of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped.

D. Notwithstanding the foregoing provisions of this section, a person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped may signal a right turn or pull to the right by extending the right hand and arm in a horizontal position straight from and level with the shoulder beyond the right side of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped, and may signal slowing down or stopping by extending the right arm downward.

§ 46.2-905. Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds on roadways and bicycle paths.

Any person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped on a roadway at less than the normal speed of traffic at the time and place under conditions then existing shall ride as close as safely practicable to the right curb or edge of the roadway, except under any of the following circumstances:

1. When overtaking and passing another vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection or into a private road or driveway;
3. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge;
4. When avoiding riding in a lane that must turn or diverge to the right; and
5. When riding upon a one-way road or highway, a person may also ride as near the left-hand curb or edge of such roadway as safely practicable.

For purposes of this section, a "substandard width lane" is a lane too narrow for a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped and another vehicle to pass safely side by side within the lane.

Persons riding bicycles, electric personal assistive mobility devices, or electric power-assisted bicycles on a highway shall not ride *more than two or more* abreast ~~except on paths or parts of highways set aside for the exclusive use of bicycles, electric personal assistive mobility devices, and electric power-assisted bicycles.~~ *Persons riding two abreast shall not impede the normal and reasonable movement of traffic, shall move into a single file formation as quickly as is practicable when being overtaken from the rear by a faster moving vehicle, and, on a laned roadway, shall ride in a single lane.*

~~The governing body of any locality may by ordinance provide that wherever a usable path for bicycles, electric personal assistive mobility devices, and electric power-assisted bicycles has been provided adjacent to a roadway, bicycle riders, electric personal assistive mobility device riders, and electric power-assisted bicycle riders shall use such path and shall not use the roadway.~~

Notwithstanding any other provision of law to the contrary, the Department of Conservation and Recreation shall permit the operation of electric personal assistive mobility devices on any bicycle path or trail designated by the Department for such use.

§ 46.2-906.1. Local ordinances may require riders of bicycles, electric personal assistive mobility devices, and electric power-assisted bicycles to wear helmets.

The governing body of any county, city or town may, by ordinance, provide that every person ~~fourteen~~ 14 years of age or younger shall wear a protective helmet that *at least* meets the ~~standards promulgated by the American National Standards Institute or the Snell Memorial Foundation Consumer Product Safety Commission standard~~ whenever riding or being carried on a bicycle, an electric personal assistive mobility device, or an electric power-assisted bicycle on any highway as defined in § 46.2-100, sidewalk, or public bicycle path.

Violation of any such ordinance shall be punishable by a fine of ~~twenty-five dollars~~ \$25. However, such fine shall be suspended (i) for first-time violators and (ii) for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by the ordinance.

Violation of any such ordinance shall not constitute negligence, or assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle, electric personal assistive mobility device, or electric power-assisted bicycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action.

§ 46.2-932. Playing on highways; roller skates, skateboards, toys, or other devices on wheels or runners; persons riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, etc., not to attach to vehicles; exception.

A. No person shall play on a highway, other than on the sidewalks thereof, within a city or town or on any part of a highway outside the limits of a city or town designated by the Commonwealth Transportation Commissioner exclusively for vehicular travel. No person shall use roller skates, skateboards, toys, or other devices on wheels or runners, except bicycles, electric personal assistive

mobility devices, electric power-assisted bicycles, mopeds, and motorcycles, on highways where play is prohibited. The governing bodies of counties, cities, and towns may designate areas on highways under their control where play is permitted and may impose reasonable restrictions on play on such highways. If the highways have only two traffic lanes, persons using such devices, except bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, and motorcycles, shall keep as near as ~~reasonably possible~~ *safely practicable* to the ~~extreme left~~ *far right* side or edge of the ~~left~~ *right* traffic lane so that they will be ~~facing oncoming~~ *proceeding in the same direction as other* traffic at all times.

No person riding on any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, roller skates, skateboards, toys, or other devices on wheels or runners, shall attach the same or himself to any vehicle on a roadway.

B. Notwithstanding the provisions of subsection A of this section, the governing body of any county having a population of at least 170,000 but less than 200,000 may by ordinance permit the use of devices on wheels or runners on highways under such county's control, subject to such limitations and conditions as the governing body may deem necessary and reasonable.

§ 46.2-1015. Lights on bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds.

Every bicycle, electric personal assistive mobility device, electric power-assisted bicycle, and moped when in use between sunset and sunrise shall be equipped with a white light on the front ~~that shall be emitting a white light~~ visible in clear weather from a distance of at least 500 feet to the front and ~~with a red reflector on visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.~~ Such reflector shall be of a type approved by the Superintendent and shall be visible in clear weather from fifty feet to 300 feet to the rear when directly in front of lawful high beams of head lights on a motor vehicle. A red light visible in clear weather for 500 feet to the rear may be used in lieu of or in addition to the red reflector. Such lights and reflector shall be of types approved by the Superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

§ 46.2-1051. Certain local governments may impose restrictions on operations of certain mopeds, mini-bikes, trail-bikes, and go-carts.

The governing body of any county, city, or town which is located within the Northern Virginia Planning District may provide by ordinance that no person shall operate and no owner shall permit the operation of, either on a highway or on public or private property within 500 feet of any residential district, any motorcycle, moped, ~~motorized~~ *electric power-assisted* bicycle, motorcycle-like device commonly known as a trail-bike or mini-bike, or motorized cart commonly known as a go-cart unless it is equipped with an exhaust system of a type installed as standard equipment, or comparable to that designed for use on that particular vehicle or device as standard factory equipment, in good working order and in constant operation to prevent excessive noise.