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HOUSE BILL NO. 151

Offered January 14, 2004

Prefiled December 30, 2003

A *BILL* to amend the Code of Virginia by adding a section numbered 33.1-46.2:1, relating to high-occupancy toll (HOT) lanes; penalties.

Patron—Albo

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 33.1-46.2:1 as follows:**

§ 33.1-46.2:1. Designation of high-occupancy toll lanes; use of such lanes; penalties.

A. For purposes of this section:

"Board" means the Commonwealth Transportation Board.

"High-occupancy toll lanes" or "HOT lanes" means a portion of a highway containing one or more travel lanes separated from other lanes by barriers, which is accessed through an electronic toll collection system, provides for discounted payment of tolls by high-occupancy vehicles, and contains a photo-enforcement system for use in such electronic toll collection.

"High-occupancy requirement" means the number of occupants required to be traveling in a vehicle for the vehicle to use HOT lanes upon payment of a discounted toll rate or without the payment of a toll.

"HOT lanes operator" means the operator of the facility containing HOT lanes, which may include the Virginia Department of Transportation or some other entity. A HOT lanes facility may have more than one operator at any given time.

"Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles, or with the equivalent agency in a state other than the Commonwealth. "Owner" does not mean a vehicle rental or vehicle leasing company.

"Photo-enforcement system" means a sensor installed in conjunction with a toll collection device to detect the presence of a vehicle that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle as it is detected by the toll collection device.

B. The Board may designate one or more lanes of any highway in the interstate, primary, or secondary highway systems, or any portion thereof, as high-occupancy toll lanes, or HOT lanes. In making a HOT lanes designation, the Board shall also designate the high-occupancy requirement for such HOT lanes, or permit a HOT lanes operator to make such designation.

C. Any person operating a motor vehicle on designated HOT lanes shall make arrangements with the HOT lanes operator for payment of the posted toll prior to entering such HOT lanes. The driver of a vehicle who enters the HOT lanes without having made arrangements with the operator for payment of the required toll shall have committed a violation of this section, enforced in the following manner:

1. A summons for violation of this section may be executed:

a. By a law-enforcement officer, when such violation is committed in the presence of such officer; or

b. Pursuant to § 19.2-76.2, when such violation is evidenced by information obtained from a photo-enforcement 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-enforcement 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. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

2. Upon a finding by a court of competent jurisdiction that either (i) the driver of a vehicle observed by a law-enforcement officer, or (ii) the vehicle described in the summons issued pursuant to evidence

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59 obtained by a photo-enforcement system was in violation of this section, the court shall impose a civil
60 penalty upon the driver or registered owner of such vehicle, together with applicable court costs and the
61 toll due, payable as follows: for a first offense, \$100; for a second offense, \$250; for a third offense and
62 subsequent offenses within a period of three years of the second offense, \$500. Such civil penalty shall
63 constitute a lien on such vehicle, subordinate to any other liens on the vehicle, unless such civil penalty
64 is paid within 30 days of imposition of judgment for such civil penalty, costs and toll due. Penalties
65 assessed for violation of this section shall be remanded to the HOT lanes operator's account for
66 expenses associated with operation of the HOT lanes and payments against any bonds or other liens
67 issued as a result of the construction of the HOT lanes.

68 3. Upon a conviction under this section, the court shall furnish to the Commissioner of the
69 Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such
70 conviction, which shall become a part of the person's driving record. Conviction of a violation of this
71 section shall be a "traffic offense of a less serious nature" for purposes of assessing driver demerit
72 points pursuant to § 46.2-492. The Department of Motor Vehicles shall forward the record of conviction
73 of an owner of a vehicle registered outside Virginia to the state of such vehicle's registration.

74 D. The HOT lanes operator may enter into an agreement with the Department of Motor Vehicles, in
75 accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain vehicle owner
76 information regarding the registered owners of vehicles who fail to pay tolls required for the use of
77 HOT lanes, and with the Department of Transportation to obtain any information that is necessary to
78 conduct electronic toll collection and otherwise operate HOT lanes. The Department of Motor Vehicles
79 shall endeavor to obtain registration information from states other than the Commonwealth for vehicles
80 in violation of this section that are registered in other states.

81 E. Notwithstanding any other provision of law, the provisions of §§ 22.1-187, 33.1-46.2, 33.1-252,
82 46.2-819, and 46.2-819.1 shall not apply to HOT lanes. The HOT lanes operator may designate certain
83 classes of persons or vehicles exempt from payment of any required toll.