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HOUSE BILL NO. 87

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on January 27, 2004)

(Patrons Prior to Substitute—Delegates Lingamfelter, Bell [HB 895], Rust [HB 366], and VanYahres
[HB155])

A BILL to amend the Code of Virginia by adding a section numbered 46.2-1077.1, relating to mobile infrared transmitters.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-1077.1 as follows:

§ 46.2-1077.1. Mobile infrared transmitters; demerit points not to be awarded.

A. It shall be unlawful for any person to operate a motor vehicle on the highways of the Commonwealth when such vehicle is equipped with a mobile infrared transmitter or any other device or mechanism, passive or active, used to preempt or change the signal given by a traffic light so as to give the right-of-way to the vehicle equipped with such device. It shall be unlawful to use any such device or mechanism on any such motor vehicle on the highways. It shall be unlawful to sell any such device or mechanism in the Commonwealth, except for uses permitted under this section. In addition, the provisions of this section shall not apply to any law-enforcement, fire-fighting, life-saving, or rescue vehicle or ambulance responding to an emergency call or operating in an emergency situation or any vehicle providing public transportation service in a corridor approved for public transportation priority by the Virginia Department of Transportation or the governing body of any county, city, or town having control of the highways within its boundaries.

This section shall not be construed to authorize the forfeiture to the Commonwealth of any such device or mechanism. Any such device or mechanism may be taken by the arresting officer if needed as evidence, and, when no longer needed, shall be returned to the person charged with a violation of this section, or at that person's request and his expense, mailed to an address specified by him. Any unclaimed devices may be destroyed on court order after six months have elapsed from the final date for filing an appeal.

Except as provided in subsection B of this section, the presence of any such prohibited device or mechanism in or on a motor vehicle on the highways of the Commonwealth shall constitute prima facie evidence of the violation of this section. The Commonwealth need not prove that the device or mechanism in question was in an operative condition or being operated.

B. A person shall not be guilty of a violation of this section when the device or mechanism in question, at the time of the alleged offense, had no power source and was not readily accessible for use by the driver or any passenger in the vehicle.

C. No demerit points shall be awarded by the Commissioner for violations of this section.

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