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HOUSE BILL NO. 1563

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 2, 2005)

(Patrons Prior to Substitute—Delegates Rust and Albo [HB 1564])

A BILL to amend the Code of Virginia by adding a section numbered 46.2-206.1, relating to imposition of certain additional fees on certain drivers.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-206.1 as follows:

§ 46.2-206.1. Imposition of certain additional fees on certain drivers; special fund created to support transportation.

A. The purpose of the civil remedial fees imposed in this section is to generate revenue from drivers whose proven dangerous driving behavior places significant financial burdens upon the Commonwealth. The Commissioner shall impose and collect these civil remedial fees pursuant to this section, which shall be in addition to any other fees, costs, or penalties imposed on persons to whom Virginia driver's licenses and commercial driver's licenses have been issued pursuant to Chapter 3 (§ 46.2-300 et seq.) of this title.

B. Any person whose driver's record with the Department shows a conviction within the past three years of:

1. Driving while his driver's license was suspended or revoked pursuant to § 18.2-272 or Article 1 (§ 46.2-300 et seq.) of Chapter 3 of this title shall be assessed a fee of \$250;

2. Reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of this title or aggressive driving in violation of § 46.2-868.1 shall be assessed a fee of \$350;

3. Driving while intoxicated in violation of any provision of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 shall be assessed a fee of \$750; and

4. Any other misdemeanor conviction for a violation of title 46.2, including but not limited to § 46.2-105.1, 46.2-105.2, 46.2-722, 46.2-832, 46.2-894, 46.2-895, 46.2-896, 46.2-921.1, or § 46.2-933, shall be assessed a fee of \$300.

5. For the purposes of this section:

(a) A finding of guilty in the case of a juvenile and a conviction under substantially similar laws of any other state or of the United States, shall be a conviction;

(b) Such fees shall be in addition to fees set forth in Subsection C; and

(c) The fee assessed shall be implemented in a manner whereby no convictions prior to July 1, 2005 shall be considered.

C. Any person whose driver's record with the Department shows a balance of four or more driver demerit points shall be assessed a fee of \$100 plus \$75 for each demerit point in excess of four, but not greater than \$700.

1. Such net balance shall include up to 5 positive points if the person successfully completes a Department approved safe driver course pursuant to §46.2-498. However, for the purposes of this section, the 5 positive points awarded can only be awarded once every five years.

2. Such fee shall be in addition to the fees set forth in subsection B.

D. The Department shall assess these fees annually.

E. The Department shall notify every person assessed a fee under this section by mailing a notice thereof by first-class mail addressed to such person's most recent address as shown in the Department's records.

F. If any assessment made under this section remains unpaid 60 days following the date on which the notice of assessment was mailed and no arrangements have been made with the Department for payment of such assessment in installments as authorized herein, the Department shall, pursuant to Article 1 (§ 46.2-300 et seq.) of Chapter 3 of this title suspend the driver's license of the person against whom the assessment was imposed and the Commissioner may institute civil proceedings in any court of competent jurisdiction to recover any such fees. Jurisdiction for assessments under this section, shall be in the jurisdiction where the person resides as is indicated in the records of the Department. The Commissioner shall be entitled to collect all costs of collection, including but not limited to attorney's fees.

G. The Department may, by regulation, provide for payment options by which persons assessed fees under this section may pay such fees in installments.

H. In the event that a person disputes a conviction on his driver's record based upon identity, if the person presents the Department a certified copy of a petition to a Court of competent jurisdiction seeking to vacate an order of such conviction, the Department shall suspend the imposition of the

60 *assessment. Such suspension shall be valid for 30 days after an entry of a final order on such petition.*

61 *1. Funds collected through the imposition of fees as provided in this section shall be used first to*
62 *pay the Department's costs in imposing and collecting such assessments, and any remainder shall be*
63 *allocated as follows:*

64 *1. The first \$40 Million each year shall be directed to the Transportation Partnership Opportunity*
65 *Fund; and*

66 *2. The remainder shall be deposited into the state treasury and credited to a special permanent,*
67 *nonreverting fund to be known as the Local Congestion Mitigation Incentive Fund. The proceeds of this*
68 *Fund shall be disbursed by the Commonwealth Transportation Board in the form of competitive grants*
69 *to counties, cities, and towns on the basis of a dollar-for-dollar match of Fund proceeds by local*
70 *contributions for the purpose of reducing air pollution and alleviating traffic congestion in localities*
71 *experiencing high population growth. Grants made under this subsection to any county, city, or town*
72 *shall be limited to those that have experienced population growth at least equal to 150 percent of the*
73 *statewide average for the past decade or are in a nonattainment area as designated by the federal*
74 *Environmental Protection Agency, and such grants shall be used only for improvements to highways*
75 *rated at service level E or worse.*

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