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HOUSE BILL NO. 2808

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 2, 2005)

(Patron Prior to Substitute—Delegate Scott, E.T.)

A BILL to amend and reenact § 19.2-81 of the Code of Virginia, relating to arrest upon a misdemeanor *capias*.

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-81 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-81. Arrest without warrant authorized in certain cases.

The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth,

2. Sheriffs of the various counties and cities, and their deputies,

3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth,

4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900,

5. Regular game wardens appointed pursuant to § 29.1-200,

6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests, and

7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in uniform, or displaying a badge of office.

Such officers may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Any such officer may arrest without a warrant any person whom the officer has probable cause to suspect of operating a watercraft or motor boat (i) while intoxicated in violation of subsection B of § 29.1-738 or (ii) in violation of an order issued pursuant to § 29.1-738.4, in his presence, and may thereafter transfer custody of the person suspected of the violation to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. In addition, such officer may, within three hours of the occurrence of any such accident involving a motor vehicle, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating such motor vehicle while intoxicated in violation of §§ 18.2-266, 18.2-266.1, 46.2-341.24, or a substantially similar ordinance of any county, city, or town in the Commonwealth.

Such officers may arrest, without a warrant *or a capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant *or a capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

Such officers may arrest, without a warrant *or upon a capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant *or capias* for such offense is on file.

Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or § 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.