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HOUSE BILL NO. 5034

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice)

(Patron Prior to Substitute—Delegate Rust)

House Amendments in [] — September 28, 2006

A BILL to amend the Code of Virginia by adding a section numbered 46.2-206.1, relating to certain additional fees imposed on certain drivers; funding of asset management in the Highway Maintenance and Operating Fund.

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; fees dedicated to Highway Maintenance and Operating Fund.

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 pursuant to the Code of Virginia.

B. The civil remedial fees established by this section shall be assessed on any resident of Virginia operating a motor vehicle on the highways of Virginia, including any person to whom a Virginia driver's license, commercial driver's license, or learner's permit has been issued pursuant to this title; any person operating a motor vehicle without a license or whose license has been revoked or suspended; and any person operating a motor vehicle with a license issued by a jurisdiction outside Virginia.

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

1. Driving while his driver's license was suspended or revoked pursuant to § 18.2-272, 46.2-301, 46.2-302, 46.2-341.21, or 46.2-391 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. A misdemeanor offense of driving while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 shall be assessed a fee of \$750;

4. Any other misdemeanor conviction for a driving or motor vehicle-related violation of Title 18.2 or this title, shall be assessed a fee of \$300; and

5. Any felony conviction for a driving or motor vehicle-related offense under Title 18.2 or this title, shall be assessed a fee of \$1,000.

6. 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 locality, territory, other state, or of the United States, shall be a conviction.

b. The fees assessed under this subsection shall be implemented in a manner whereby no convictions prior to July 1, 2008, shall be considered.

c. The Commissioner shall assess the fees established under this subsection within 30 days of the conviction being reported to the Department, and on the second and third year anniversaries of the conviction being reported to the Department.

D. In addition to any fees set forth in subsection C, any person whose driver's record with the Department shows a balance of four or more driver demerit points on July 15 shall be assessed a fee of \$100 plus \$75 for each demerit point in excess of four, but not greater than \$700. The Commissioner shall assess the fees set forth in this subsection annually, beginning on July 15, 2008.

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, and such mailing shall constitute notice to the person of the assessment of the fee. If any assessment made under this section remains unpaid 60 days following the date on which the notice of assessment was mailed, the Department shall suspend the driver's license of the person against whom the assessment was imposed. No license shall be reissued or reinstated until all fees assessed have been paid.

F. 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 assessment. Such suspension shall be valid for one year from the date of the commencement or until 30 days after an entry of a final order on such petition, whichever occurs first.

G. Funds collected through the imposition of fees as provided in this section shall be used first to

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60 *pay the Department's costs in imposing and collecting such assessments, and any remainder shall be*
61 *credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth*
62 *Transportation Fund.*