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HOUSE BILL NO. 2376**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Transportation
on February 3, 2007)

(Patron Prior to Substitute—Delegate Rust [HB 2257])

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; disposition of revenue 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 civil remedial fees established by this section 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 persons to whom Virginia driver's licenses, commercial driver's licenses, or learner's permits have been issued pursuant to this title; persons operating motor vehicles without licenses or whose license has been revoked or suspended; and persons operating motor vehicles with a license issued by a jurisdiction outside Virginia.

C. The court shall assess a person with the following fees upon each conviction of the following offenses:

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 to be paid in three annual payments of \$250 each;

2. Reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 or aggressive driving in violation of § 46.2-868.1 shall be assessed a fee to be paid in three annual payments of \$350 each;

3. Driving while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 shall be assessed a fee to be paid in three annual payments of \$750 each; and

4. Any other misdemeanor conviction for a driving and/or motor vehicle related violation of Title 18.2 or this title that is not included in one of the preceding three subdivisions of this subsection shall be assessed a fee to be paid in three annual payments of \$300 each; 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 to be paid in three annual payments of \$1,000 each.

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, 2007, shall be considered.

D. The court shall collect, in full, the first annual payment of the fee imposed under subsection C at the time of conviction and shall order the person assessed a fee to submit the second annual payment to the Department within 14 calendar months of the date of conviction and the third annual payment to the Department within 26 months of the date of conviction. When transmitting conviction information to the Department the court shall also transmit notice that a fee has been imposed under this section and the deadline upon which the second and third annual payments must be submitted to the Department. The court shall order suspension of the driver's license or privilege to drive a motor vehicle in Virginia as provided in § 46.2-395 of any person failing to pay the first annual payment of the fee assessed under subsection C.

E. For all convictions reported to the Department for which fees are established under subsection C, the person assessed the fee shall submit the second annual payment to the Commissioner within 14 calendar months of the date of conviction and the third annual payment within 26 months of the date of conviction. The Department shall notify every person assessed a fee by mailing a notice of the second and the third annual payments, including the amount due and the date it is due, by first-class mail addressed to such person's most recent address as shown in the Department's records. Such mailing shall constitute notice to the person assessed a fee under this section of the amount and date by which the second and third annual payments shall be paid to the Department. The Commissioner shall suspend the driver's license or privilege to drive a motor vehicle in Virginia of any person failing to pay the second or third annual payment of the fee to the Department by the due date specified in the notice.

60 *F. In addition to any fees set forth in subsection C, any person whose driver's record with the*
61 *Department shows a balance of eight or more driver demerit points on July 15 shall be assessed a fee*
62 *of \$100 plus \$75 for each demerit point in excess of eight, but not greater than \$700.*

63 *G. The Department shall assess the fees set forth in subsection F annually, beginning on July 1,*
64 *2007.*

65 *H. The Department shall notify every person assessed a fee under subsection F by mailing a notice*
66 *thereof by first-class mail addressed to such person's most recent address as shown in the Department's*
67 *records, and such mailing shall constitute notice to the person of the assessment of the fee. If any*
68 *assessment made under this section remains unpaid 60 days following the date on which the notice of*
69 *assessment was mailed, the Commissioner shall suspend the driver's license or privilege to drive a*
70 *motor vehicle in Virginia of the person against whom the assessment was imposed. No license shall be*
71 *reissued or reinstated until all fees assessed pursuant to this section have been paid and all other*
72 *reinstatement requirements as provided in this title have been satisfied.*

73 *I. In the event that a person disputes a conviction on his driver's record based upon identity, if the*
74 *person presents the Department a certified copy of a petition to a court of competent jurisdiction*
75 *seeking to vacate an order of such conviction, the Department shall suspend the imposition of the*
76 *assessment. Such suspension shall be valid for one year from the date of the commencement or until 30*
77 *days after an entry of a final order on such petition, whichever occurs first.*

78 *J. Funds collected through the imposition of the fees as provided for in this section shall be used to*
79 *pay the Department's cost in imposing and collecting such assessments as provided in the general*
80 *appropriation act, and any remainder shall be deposited into the Highway Maintenance and Operating*
81 *Fund and used as outlined in §§ 2.2-1509.2 and 33.1-23.02.*

82 **2. That in the event that the Department of Motor Vehicles is unable to implement the provisions**
83 **of this act concerning the fees under subsection F of § 46.2-206.1 of the Code of Virginia on the**
84 **effective date of this act, the fees to be assessed pursuant to this act under subsection F of**
85 **§ 46.2-206.1 of the Code of Virginia shall be assessed beginning no later than January 1, 2008. The**
86 **Department shall notify each person assessed such a fee by mailing the requisite notice at the**
87 **earliest time possible.**

88 **3. That the revenue generated by this act shall be used solely for transportation purposes.**

89 **4. That the provisions of this act shall expire on December 31 of any year in which the General**
90 **Assembly appropriates any of the revenue generated under this act for any purpose other than**
91 **transportation.**