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HOUSE BILL NO. 1243

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 8, 2008)

(Patron Prior to Substitute—Delegate Hugo)

A BILL to repeal § 46.2-206.1 of the Code of Virginia, relating to civil remedial fees imposed on certain drivers.

Whereas, § 46.2-206.1 of the Code of Virginia, relating to the imposition of civil remedial fees on certain drivers convicted of various offenses, was enacted during the 2007 Session of the General Assembly and became effective on July 1, 2007, for offenses committed after that date; and

Whereas, § 46.2-206.1 of the Code of Virginia is to be repealed by this act with an emergency clause that will make the repeal effective upon passage; and

Whereas, those individuals who were tried and convicted prior to the passage of this act for offenses committed on or after July 1, 2007, that carried the imposition of the civil remedial fees had such fees imposed by the courts trying the cases, but those individuals who were charged with such offenses during the same period, but whose charges were not tried and convictions not entered prior to passage of this act will not have such fees imposed; and

Whereas, such individuals who were tried and convicted prior to passage of this act for offenses committed after July 1, 2007, that carried the imposition of the civil remedial fees and who had such fees imposed by the court trying the case have no other means to obtain relief except by action of the General Assembly; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-206.1 of the Code of Virginia is repealed.

2. No person charged with an offense set forth in subsection C of § 46.2-206.1 prior to the effective date of this act, but not convicted prior to the effective date of this act, shall be ordered to pay a civil remedial fee pursuant to § 46.2-206.1.

3. That, when the records of a court demonstrate that a person who was assessed a civil remedial fee pursuant to § 46.2-206.1 of the Code of Virginia has paid all or a portion of the civil remedial fee due to the court, the clerk of that court shall forthwith transmit notice of such payment to the Comptroller, who shall then promptly draw a warrant for payment by the State Treasurer of a refund to such person. Such refund shall be for the full amount of the civil remedial fee paid.

4. That, in lieu of collection of a civil remedial fee and issuance of a refund in accordance with this act, the clerk of any court that assessed any civil remedial fee pursuant to § 46.2-206.1 of the Code of Virginia shall, for those civil remedial fees subject to collection by the court which have not yet been paid, record an offsetting credit equal to the amount of the civil remedial fee still due to the court by each person assessed the fee, to reflect that the full amount of the civil remedial fee due to the court has been satisfied. The clerk of such court shall notify the person that the civil remedial fee due to the court has been satisfied and provide the person with the amount of any outstanding fines and costs owed to the court in the case. The clerk of such court shall notify the Department of Motor Vehicles that the civil remedial fee due to the court has been satisfied as to any such person and whether the person's driver's license was suspended pursuant to § 46.2-395 of the Code of Virginia solely for failure to pay a civil remedial fee due to the court, or any portion thereof. Upon receipt of notice from the clerk that the person's driver's license was suspended solely for failure to pay a civil remedial fee due to the court, the Department of Motor Vehicles shall notify such person as to whether he is eligible to have his driver's license reinstated. If the person's driver's license was suspended solely for failure to pay any civil remedial fee and the person is otherwise eligible to be licensed, then the person's driver's license shall be reinstated by the Department and the requirements of § 46.2-411 of the Code of Virginia shall be waived.

5. That, in lieu of the collection of a civil remedial fee and issuance of a refund in accordance with this act, for those civil remedial fees subject to collection by the Department of Motor Vehicles in years two and three pursuant to the provisions of § 46.2-206.1 of the Code of Virginia, the Department shall, no later than the date that any civil remedial fee is due from a person in year two, record an offsetting debit and credit on the person's driving record and in the Department's records to reflect that the full amount of the fee has been satisfied for both years two and three. The Department shall notify such person that the balance due for the civil remedial fees for both years is zero.

6. Notwithstanding the 22nd enactment of Chapter 896 of the 2007 Acts of Assembly, non-collection and refund of the civil remedial fees authorized pursuant to that act shall not cause any provision of Chapter 896 which generates additional revenue for the Transportation Trust

60 Fund, established pursuant to § 33.1-23.03:1 of the Code of Virginia, or the Highway Maintenance
61 and Operating Fund, to expire.
62 7. That an emergency exists and this act is in force from its passage.