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HOUSE BILL NO. 323

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact §§ 16.1-69.40:1 and 16.1-69.40:2 of the Code of Virginia, relating to prepayable traffic infractions; payment of costs.

Patron—Saxman

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.40:1 and 16.1-69.40:2 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines ~~and costs~~ without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be $200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3. *Costs shall not be assessed for any infraction or offense for which a fine is prepaid without court appearance as allowed under this section.*

Such infractions shall not include:

(a) Indictable offenses;

(b) —Repealed.]

(c) Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;

(d) Reckless driving;

(e) Leaving the scene of an accident;

(f) Driving while under suspension or revocation of driver's license;

(g) Driving without being licensed to drive.

(h) —Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. *Costs shall not be assessed for any infraction or offense for which a fine is prepaid without court appearance as allowed under this section.* He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles or the appropriate offices of the State where he received his license to drive.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder. *Costs shall not be assessed for any infraction or offense for which a fine is prepaid without court appearance as allowed under this section.*

D. Fines imposed under local traffic infraction ordinances which do not parallel provisions of state law and fulfill the criteria set out in subsection A of this section may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts.

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The judges of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder. *Costs shall not be assessed for any infraction for which a fine is prepaid without court appearance as allowed under this section.*

§ 16.1-69.40:2. Nontraffic offenses for which prepayment authorized; schedules, fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the nontraffic offenses for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such offenses shall not include:

1. Indictable offenses;
2. Class 1 or Class 2 misdemeanors;
3. Offenses which involve moral turpitude;
4. Any offenses involving injury to persons;
5. Any offense punishable by incarceration or by a fine of more than $500.

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and plea of guilty and pay the fine established for the offense charged, with costs. *Costs shall not be assessed for any infraction or offense for which a fine is prepaid without court appearance as allowed under this section.* He shall, prior to the plea, waiver and payment, be informed of his right to stand trial and that his signature to a plea of guilty will have the same force and effect as a judgment of court.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines to be imposed upon prepayment of nontraffic offenses authorized as prepayable under subsection A of this section, designating each offense specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The Rule of the Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder. *Costs shall not be assessed for any infraction or offense for which a fine is prepaid without court appearance as allowed under this section.*

D. Local ordinances fulfilling the criteria set out in subsection A of this section may be prepayable in a like manner if such ordinances appear in a schedule entered by order of the local circuit courts. The judges of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within ten days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder. *Costs shall not be assessed for any infraction for which a fine is prepaid without court appearance as allowed under this section.*