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SENATE BILL NO. 368

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 23, 2008)

(Patron Prior to Substitute—Senator Watkins)

A *BILL to amend and reenact § 46.2-817 of the Code of Virginia, relating to disregarding signal to stop; penalties.*

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-817 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-817. Disregarding signal by law-enforcement officer to stop; eluding police; penalties.

A. Any person who, having received a visible or audible signal from any law-enforcement officer to bring his motor vehicle to a stop, drives such motor vehicle in a willful and wanton disregard of such signal or who attempts to escape or elude such law-enforcement officer, is guilty of a Class 3 misdemeanor. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows he reasonably believed he was being pursued by a person other than a law-enforcement officer.

B. Any person who, having received a visible or audible signal from any law-enforcement officer to bring his motor vehicle to a stop, drives such motor vehicle in a willful and wanton disregard of such signal so as to interfere with or endanger the operation of the law-enforcement vehicle or endanger a person is guilty of a Class 6 felony. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows he reasonably believed he was being pursued by a person other than a law-enforcement officer.

C. *If a law-enforcement officer pursues a person as a result of a violation of subsection B and the law-enforcement officer or a third party is killed as a direct and proximate result of the pursuit, the person who violated subsection B is guilty of a Class 4 felony.*

D. When any person is convicted of an offense under this section, in addition to the other penalties provided in this section, the driver's license of such person shall be suspended by the court for a period of not less than thirty days nor more than one year. However, in any case where the speed of such person is determined to have exceeded the maximum allowed by twenty miles per hour, his driver's license shall be suspended by the court trying the case for a period of not less than ninety days. In case of conviction and suspension, the court or judge shall order the surrender of the license to the court, which shall dispose of it in accordance with the provisions of § 46.2-398.

E. *Violation of this section shall constitute a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.*

2. **That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$16,887 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**