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HOUSE BILL NO. 1614

Offered January 14, 2009

Prefiled November 19, 2008

A BILL to amend the Code of Virginia by adding a section numbered 46.2-800.2, relating to the possession of an open container of alcohol in a motor vehicle; penalty.

Patron—Purkey

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 46.2-800.2 as follows:

§ 46.2-800.2. Possession of open container of alcohol in a motor vehicle; penalty.

A. 1. No person shall knowingly or intentionally possess any alcoholic beverage in the passenger area of a motor vehicle upon a public highway of the Commonwealth, including the shoulder thereof, as defined in § 46.2-100, in other than the manufacturer's unopened, original container. If the seal on a container of an alcoholic beverage is broken or some of the contents have been removed, the container shall be presumed to be open.

2. An open container shall be considered to be in the possession of the driver of a vehicle if the open container is in the passenger area of a vehicle, but is not in the possession of a passenger. An open container shall be considered to be in the possession of a passenger of a vehicle if the open container is in the physical control of the passenger.

3. For purposes of this section, "public highway" shall not include any motor vehicle parking lot.

"Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. This term shall not include the trunk of any passenger vehicle, the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle, the living quarters of a motor home, or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

4. The driver of a motor home or motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation shall not possess an open container while driving or occupying any area of such vehicle.

B. Any person who violates this section shall be subject to a civil penalty of $25 and any such prosecution shall be instituted and conducted in the same manner as a prosecution for a traffic infraction. All penalties collected under this subsection shall be paid into the Traffic Safety Fund, pursuant to subdivision 14 of § 46.2-223.

INTRODUCED

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