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HOUSE BILL NO. 2245

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact § 19.2-81 of the Code of Virginia, relating to transfer of arresting authority for DUI; arrest for misdemeanor not committed in officer's presence.

Patron—Barlow

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-81 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-81. Arrest without warrant authorized in certain cases.

The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in uniform, or displaying a badge of office;
8. Conservation officers appointed pursuant to § 10.1-115; and
9. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

Such officers may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Any such officer may arrest, without a warrant, any person who commits any misdemeanor or traffic infraction, or a violation of any substantially similar local ordinance, not committed in his presence if he receives a message, by radio or otherwise, from another such officer who observed the violation, with or without the assistance of a camera or other electronic device, provided that the observing officer sends the message immediately after he observes the alleged offense and positively identifies the alleged offender to the arresting officer. The arresting officer may then, in accordance with § 19.2-74, either arrest the alleged offender or issue him a summons, as if the offense had been committed in his presence. If a summons is issued, the names of both the arresting officer and the observing officer shall be included on the summons.

Any such officer may arrest without a warrant any person whom the officer has probable cause to suspect of (i) operating a motor vehicle in the officer's presence while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 or while his privilege to operate a motor vehicle has been denied, restricted, or revoked in violation of § 18.2-272; or (ii) operating a watercraft or motor boat in the officer's presence ~~(i)~~(a) while intoxicated in violation of subsection B of § 29.1-738 or ~~(ii)~~(b) in violation of an order issued pursuant to § 29.1-738.4, ~~in his presence~~, and may thereafter transfer custody of the person suspected of ~~the~~any such violation to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident" shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public. In addition, such officer may, within three hours of the occurrence of any such accident involving a motor vehicle, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving

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59 or operating such motor vehicle while (i) intoxicated in violation of § 18.2-266, 18.2-266.1, *or*
60 46.2-341.24, (ii) *in violation of* § 18.2-272, *or* (iii) *in violation of* a substantially similar ordinance of
61 any county, city, or town in the Commonwealth.

62 Such officers may arrest, without a warrant or a capias, persons duly charged with a crime in another
63 jurisdiction upon receipt of a photocopy of a warrant or a capias, telegram, computer printout, facsimile
64 printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer
65 printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably
66 accurate description of such person wanted and the crime alleged.

67 Such officers may arrest, without a warrant or a capias, for an alleged misdemeanor not committed in
68 his presence when the officer receives a radio message from his department or other law-enforcement
69 agency within the Commonwealth that a warrant or capias for such offense is on file.

70 Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their
71 presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii)
72 carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv)
73 brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of
74 § 18.2-137, when such property is located on premises used for business or commercial purposes, or a
75 similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of
76 the person who observed the alleged offense. The arresting officer may issue a summons to any person
77 arrested under this section for a misdemeanor violation involving shoplifting.