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HOUSE BILL NO. 545

Offered January 11, 2012
Prefiled January 10, 2012

A BILL to amend and reenact § 46.2-920.1 of the Code of Virginia, relating to incident management in the Commonwealth.

Patron—Comstock

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-920.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-920.1. Operation of tow trucks or vehicles owned or controlled by the Virginia Department of Transportation under certain circumstances; incident management.

A. When operating at or en route to or from the scene of a traffic accident or similar emergency and when specifically directed by a law-enforcement officer present at the scene of a motor vehicle crash or similar incident, tow truck operators or vehicles owned or controlled by the Virginia Department of Transportation may:

1. Operate on a highway in a direction opposite that otherwise permitted for traffic;
2. Cross medians of divided highways;
3. Use cross-overs and turn-arounds otherwise reserved for use only by authorized vehicles;
4. Drive on a portion of the highway other than the roadway;
5. Stop or stand on any portion of the highway; and
6. Operate in any other manner as directed by a law-enforcement officer at the scene.

B. When operating at, en route to, or from the scene of a traffic accident or similar emergency, a vehicle operated pursuant to a Virginia Department of Transportation safety service patrol program, with due regard to the safety of persons and property and without direction of law enforcement, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. For purposes of this subsection, "safety service patrol program" means a program sponsored or operated by the Virginia Department of Transportation that assists stranded motorists and provides traffic control during traffic incidents, including traffic accidents and road work.

C. Nothing in this section, however, shall (i) immunize the driver of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property or (ii) release the driver of any such vehicle from any civil liability for failure to use reasonable care in operations permitted in this section. However, drivers of vehicles owned or operated by the Virginia Department of Transportation and employees of the Commonwealth of Virginia are immune for acts of simple negligence for claims of civil liability arising from the operation of such vehicles pursuant to this section.