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SENATE BILL NO. 1005

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to use of handheld personal communications devices while operating a motor vehicle.*

Patron—McWaters

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1078.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.

A. *For the purposes of this section, "emergency vehicle" means:*

1. *Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;*

2. *Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;*

3. *Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;*

4. *Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;*

5. *Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;*

6. *Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and*

7. *Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.*

B. It shall be unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or

2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored in the device nor to any caller identification information.

C. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle;

2. An operator who is lawfully parked or stopped;

3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or

4. Any person using a handheld personal communications device to report an emergency.

D. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute, *unless the citation is issued for a violation while operating a motor vehicle on a bridge or in a tunnel.*

E. A violation of any provision of this section shall constitute a traffic infraction punishable, for a first offense, by a fine of \$20 and, for a second or subsequent offense, by a fine of \$50, *unless such traffic infraction is for a violation while operating a motor vehicle on a bridge or in a tunnel, which shall be punishable by a fine of \$150 for a first offense and by a fine of \$250 for a second or subsequent offense.*

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;

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- 59 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when
60 traveling in response to a fire alarm or emergency call;
- 61 4. Any ambulance, rescue, or life-saving vehicle designed or used for the principal purpose of
62 supplying resuscitation or emergency relief where human life is endangered;
- 63 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services
64 vehicle, when responding to an emergency call or operating in an emergency situation;
- 65 6. Any Department of Corrections vehicle designated by the Director of the Department of
66 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a
67 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a
68 request for assistance from a law-enforcement officer; and
- 69 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
70 secondary warning lights pursuant to ~~§ 46.2-1029.2.~~