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SENATE BILL NO. 1222

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 4, 2013)

(Patrons Prior to Substitute—Senators Norment and Barker [SBs 1160 and 1238])

A BILL to amend and reenact §§ 46.2-868 and 46.2-1078.1 of the Code of Virginia, relating to unlawful use of handheld personal communications devices while driving; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-868 and 46.2-1078.1 of the Code of Virginia are amended and reenacted as follows: § 46.2-868. Reckless driving; penalties.

A. Every person convicted of reckless driving under the provisions of this article shall be is guilty of a Class 1 misdemeanor.

B. Every person convicted of reckless driving under the provisions of this article who, when he committed the offense, (i) was driving without a valid operator's license due to a suspension or revocation for a moving violation and, (ii) as the sole and proximate result of his reckless driving, caused the death of another, is guilty of a Class 6 felony.

C. The punishment for every person convicted of reckless driving under the provisions of this article who, when he committed the offense, was in violation of § 46.2-1078.1 shall include a mandatory minimum fine of \$500.

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

A. It shall be is 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 within the device nor to any caller identification information.

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

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;

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.

C. 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.

D. A violation of any provision of this section shall constitute is a traffic infraction punishable, for a first offense, by a fine of \$20 \$250 and, for a second or subsequent offense, by a fine of \$50 \$500.

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.

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