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SENATE BILL NO. 336

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact § 46.2-100 of the Code of Virginia, relating to the definition of all-terrain and utility vehicles.*

Patron—Newman

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-100 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-100. Definitions.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this section except in those instances where, unless the context clearly indicates requires a different meaning:

"All-terrain vehicle" means (i) a three-wheeled or, four-wheeled, or six-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure with nonhighway tires; a seat designed to be straddled by the operator, and handlebars for steering and with a width not greater than 50 inches or (ii) a vehicle with four or more nonhighway tires and with a width greater than 50 inches but not greater than 65 inches that is intended for off-road use by an individual rider on various types of unpaved terrain and that can carry passengers if designed by the manufacturer for passengers. The term does not include four-wheeled vehicles, commonly known as "go-carts," that which have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower, any "utility vehicle" as defined in this section, or any "farm utility vehicle" as defined in this section.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the

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59 surface.

60 "Decal" means a device to be attached to a license plate that validates the license plate for a
61 predetermined registration period.

62 "Department" means the Department of Motor Vehicles of the Commonwealth.

63 "Disabled parking license plate" means a license plate that displays the international symbol of access
64 in the same size as the numbers and letters on the plate and in a color that contrasts with the
65 background.

66 "Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand;
67 (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. *Department of Veterans*
68 *Administration Affairs*. A veteran shall be considered blind if he has a permanent impairment of both
69 eyes to the following extent: (i) central visual acuity of 20/200 or less in the better eye, with corrective
70 lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral
71 field has contracted to such an extent that the widest diameter of visual field subtends an angular
72 distance no greater than 20 degrees in the better eye.

73 "Driver's license" means any license, including a commercial driver's license as defined in the
74 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the
75 Commonwealth authorizing the operation of a motor vehicle.

76 "Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device
77 that is designed to transport only one person and powered by an electric propulsion system that limits
78 the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 of this title
79 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a
80 highway.

81 "Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in
82 contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii)
83 an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the
84 rider. For the purposes of Chapter 8 of this title (§ 46.2-800 et seq.), an electric power-assisted bicycle
85 shall be a vehicle when operated on a highway.

86 "Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of
87 which will tend to conceal the identity of a vehicle.

88 "Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural
89 implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery
90 and implements including self-propelled mowers designed and used for mowing lawns.

91 "Farm utility vehicle" means a vehicle that is designed for off-road use and is used as a farm,
92 agricultural, or horticultural service vehicle, generally having a gasoline or diesel engine, four or more
93 wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed.
94 "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, riding
95 lawn mowers, or all-terrain vehicles.

96 "Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all
97 administrative regulations and policies adopted pursuant thereto.

98 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
99 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided
100 for in § 46.2-472.

101 "Foreign market vehicle" means any motor vehicle originally manufactured outside the United States,
102 which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and
103 regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

104 "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the
105 Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer
106 and that has not been registered in the Commonwealth.

107 "Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their
108 equipment on a golf course.

109 "Governing body" means the board of supervisors of a county, council of a city, or council of a
110 town, as context may require.

111 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load
112 thereon.

113 "Highway" means the entire width between the boundary lines of every way or place open to the use
114 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,
115 and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads
116 or private streets that have been specifically designated "highways" by an ordinance adopted by the
117 governing body of the county, city, or town in which such private roads or streets are located and (ii)
118 the entire width between the boundary lines of every way or place used for purposes of vehicular travel
119 on any property owned, leased, or controlled by the United States government and located in the
120 Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also include city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753 and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, C.F.R. § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that has (i) a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground and (ii) a gasoline, electric, or hybrid motor that displaces less than 50 cubic centimeters. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. For the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. The term "motorcycle" does not include any "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle" or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. The term "motorized skateboard or scooter" includes vehicles with or without handlebars, but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of

182 corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only
183 such principal place of business or branches located within the Commonwealth shall be dealt with as
184 residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the
185 Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except
186 for the purposes of Chapter 3 (§ 46.2-300 et seq.) of this title; (iii) a person, other than a nonresident
187 student as defined in this section, who has actually resided in the Commonwealth for a period of six
188 months, whether employed or not, or who has registered a motor vehicle, listing an address in the
189 Commonwealth in the application for registration shall be deemed a resident for the purposes of this
190 title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

191 "Nonresident student" means every nonresident person who is enrolled as a full-time student in an
192 accredited institution of learning in the Commonwealth and who is not gainfully employed.

193 "Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual
194 rider with not more than two wheels in contact with the ground. Except as otherwise provided in this
195 chapter title, for the purposes of this chapter title off-road motorcycles shall be deemed to be
196 "motorcycles."

197 "Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for
198 compensation," and "business of transporting persons or property" mean any owner or operator of any
199 motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or
200 receives compensation for the service, directly or indirectly; but these terms do not mean a "truck
201 lessor" as defined in this section and do not include persons or businesses that receive compensation for
202 delivering a product that they themselves sell or produce, where a separate charge is made for delivery
203 of the product or the cost of delivery is included in the sale price of the product, but where the person
204 or business does not derive all or a substantial portion of its income from the transportation of persons
205 or property except as part of a sales transaction.

206 "Operator" or "driver" means every person who either (i) drives or is in actual physical control of a
207 motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a
208 motor vehicle.

209 "Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of
210 an agreement for its conditional sale or lease with the right of purchase on performance of the
211 conditions stated in the agreement and with an immediate right of possession vested in the conditional
212 vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or
213 lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent
214 paid by the lessee includes charges for services of any nature or when the lease does not provide that
215 title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner
216 of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to
217 vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the
218 owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of
219 private carriers.

220 "Passenger car" means every motor vehicle other than a motorcycle designed and used primarily for
221 the transportation of no more than 10 persons including the driver.

222 "Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or
223 other means of access" set forth in 15 U.S.C. § 1693a(1). For the purposes of this title, this definition
224 shall also include a card that enables a person to pay for transactions through the use of value stored on
225 the card itself.

226 "Pickup or panel truck" means every motor vehicle designed for the transportation of property and
227 having a registered gross weight of 7,500 pounds or less.

228 "Private road or driveway" means every way in private ownership and used for vehicular travel by
229 the owner and those having express or implied permission from the owner, but not by other persons.

230 "Reconstructed vehicle" means every vehicle of a type required to be registered under this title
231 materially altered from its original construction by the removal, addition, or substitution of new or used
232 essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle
233 identification number, line-make, and model year.

234 "Replica vehicle" means every vehicle of a type required to be registered under this title not fully
235 constructed by a licensed manufacturer but either constructed or assembled from components. Such
236 components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The
237 kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or
238 a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model,
239 or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a
240 reconstructed or specially constructed vehicle as herein defined.

241 "Residence district" means the territory contiguous to a highway, not comprising a business district,
242 where 75 percent or more of the property abutting such highway, on either side of the highway, for a
243 distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is

244 occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of
 245 territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200
 246 et seq.) of Title 15.2.

247 "Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or
 248 restoration except through reapplication after the expiration of the period of revocation.

249 "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
 250 travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical
 251 barrier or barriers or an unpaved area.

252 "Safety zone" means the area officially set apart within a roadway for the exclusive use of
 253 pedestrians and that is protected or is so marked or indicated by plainly visible signs.

254 "School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial
 255 bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private
 256 or religious schools, or used for the transportation of the mentally or physically handicapped to and
 257 from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a
 258 specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A
 259 yellow school bus may have a white roof provided such vehicle is painted in accordance with
 260 regulations promulgated by the Department of Education.

261 "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a
 262 motor vehicle that some part of its own weight and that of its own load rests on or is carried by another
 263 vehicle.

264 "Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by
 265 an open space or barrier and is located either within the highway right-of-way or within a separate
 266 right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel
 267 chair conveyances, joggers, and other nonmotorized users.

268 "Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic
 269 and the lateral curbline or ditch.

270 "Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway,
 271 and the adjacent property lines, intended for use by pedestrians.

272 "Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or
 273 runners, and supported in whole or in part by one or more skis, belts, or cleats.

274 "Special construction and forestry equipment" means any vehicle which is designed primarily for
 275 highway construction, highway maintenance, earth moving, timber harvesting or other construction or
 276 forestry work and which is not designed for the transportation of persons or property on a public
 277 highway.

278 "Specially constructed vehicle" means any vehicle that was not originally constructed under a
 279 distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a
 280 reconstructed vehicle as herein defined.

281 "Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter
 282 configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and
 283 below the rearmost axle of the power unit.

284 "Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

285 "Suspend" or "suspension" means that the document or privilege suspended has been temporarily
 286 withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the
 287 end of the period of suspension.

288 "Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by
 289 means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight
 290 rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels
 291 and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."
 292 "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or
 293 watercraft transporter," or "tractor truck" as those terms are defined in this section.

294 "Towing and recovery operator" means a person engaged in the business of (i) removing disabled
 295 vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii)
 296 restoring to the highway or other location where they either can be operated or removed to other
 297 locations for repair or safekeeping vehicles that have come to rest in places where they cannot be
 298 operated.

299 "Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued
 300 vehicle identification number, that is designed or used to carry any person or persons, on any number of
 301 wheels, bearings, glides, blades, runners, or a cushion of air. The term does not include electric personal
 302 assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include
 303 any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

304 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles

305 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached
306 thereto.

307 "Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a
308 felony nor a misdemeanor.

309 "Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the
310 forward movement of a single line of vehicles.

311 "Trailer" means every vehicle without motive power designed for carrying property or passengers
312 wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

313 "Truck" means every motor vehicle designed to transport property on its own structure independent
314 of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

315 "Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer
316 that is the subject of a bona fide written lease for a term of one year or more to another person,
317 provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted
318 common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the
319 leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the
320 lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased
321 motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor;
322 and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

323 "Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by an
324 engine of no more than 25 horsepower, and (iii) used for general maintenance, security, agricultural, or
325 horticultural purposes. "Utility vehicle" does not include all-terrain vehicles as defined in this section,
326 riding lawn mowers, or any other vehicle whose definition is included in this section.

327 "Vehicle" means every device in, on or by which any person or property is or may be transported or
328 drawn on a highway, except devices moved by human power or used exclusively on stationary rails or
329 tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, bicycles, electric personal
330 assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated
331 on a highway.

332 "Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used
333 to provide mobility for persons who, by reason of physical disability, are otherwise unable to move
334 about as pedestrians. The term includes both three-wheeled and four-wheeled devices. So long as it is
335 operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair
336 conveyance shall not be considered a motor vehicle.