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SENATE BILL NO. 1279

Offered January 14, 2015

Prefiled January 14, 2015

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

Patron—Wexton

Referred to Committee on Transportation

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 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 \$250.~~

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

A. It 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 within the device nor to any caller identification information unless the device is configured to allow voice-operated or hands-free operation of the device and the device is used in that manner while the motor vehicle is in motion.~~

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. ~~The use of a handheld personal communications device for the purposes of navigation or generating audio transmission, provided that such device is physically mounted to the motor vehicle while in use;~~

5. ~~The use of two-way citizens band radio devices; or~~

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

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. ~~A person who violates this section who, at the time he committed the violation, (i) was in violation of any traffic offense punishable as a misdemeanor or felony under Title 18.2 or Title 46.2 or under a substantially similar local ordinance or (ii) caused an accident as the proximate result of his violation of this section is guilty of reckless driving, which is punishable as provided in § 46.2-868.~~

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;

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

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59 vehicle, when responding to an emergency call or operating in an emergency situation;

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

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

66 D. Distracted driving shall be included as a part of the driver's license knowledge examination.

67 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
68 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
69 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
70 **2 of the Acts of Assembly of 2014, Special Session I, requires the Virginia Criminal Sentencing**
71 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated**
72 **amount of the necessary appropriation cannot be determined for periods of commitment to the**
73 **custody of the Department of Juvenile Justice.**