16102796D

HOUSE BILL NO. 407

Offered January 13, 2016

Prefiled January 7, 2016

A BILL to amend and reenact § 33.2-501 of the Code of Virginia, relating to designation of HOV lanes on Interstate 66.

Patrons—Bulova, Bell, John J., Boysko, LeMunyon, Murphy and Webert

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 33.2-501 of the Code of Virginia is amended and reenacted as follows:

§ 33.2-501. Designation of HOV lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Board may designate one or more lanes of any highway in the Interstate System, primary state highway system, or secondary state highway system as HOV lanes. When lanes have been so designated and have been appropriately marked with signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such lanes. Any highway for which the locality receives highway maintenance funds pursuant to § 33.2-319 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. However, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as firefighting vehicles and emergency medical services vehicles;

2. Law-enforcement vehicles;

3. Motorcycles;

4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver;

b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-2096, 46.2-2099.4, or 46.2-2099.44;

5. Vehicles of public utility companies operating in response to an emergency call;

6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3, provided such use is in compliance with federal law;

7. Taxicabs having two or more occupants, including the driver; or

8. (Contingent effective date) Any active duty military member in uniform who is utilizing Interstate 264 and Interstate 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of Highways shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility shall be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner of Highways shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board or local governing body shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section is guilty of a traffic infraction, which shall not be a moving violation, and on conviction shall be fined $100. However, violations committed within the boundaries of Planning

INTRODUCED

11/29/22 11:4

District 8 shall be punishable as follows:

1. For a first offense, by a fine of $125;

2. For a second offense within a period of five years from a first offense, by a fine of $250;

3. For a third offense within a period of five years from a first offense, by a fine of $500; and

4. For a fourth or subsequent offense within a period of five years from a first offense, by a fine of $1,000.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section, except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District 8 shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any locality, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.2-613, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. Notwithstanding the contrary provisions of this section, ~~the following conditions shall be met before~~ the HOV-2 designation of Interstate ~~Route~~ 66 ~~outside the Capital Beltway can~~ *shall not* be changed to HOV-3 or any more restrictive designation~~:~~

~~1. The Department of Transportation shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate Route 66.~~

~~2. The Department of Transportation shall hold public hearings in the corridor to receive comments from the public.~~

~~3. The Department of Transportation shall make a finding of the need for a change in such designation, based on public hearings and its internal data, and present this finding to the Board for approval.~~

~~4. The Board shall make written findings and a decision based upon the following criteria:~~

~~a. Is changing the HOV-2 designation to HOV-3 in the public interest?~~

~~b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate Route 66?~~

~~c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?~~

2. That the provisions of this act shall expire on January 1, 2020.