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## SENATE BILL NO. 860

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation  
on January 18, 2017)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to hands-free operation of handheld personal communications devices in motor vehicles; exceptions; penalty.

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. 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 handheld personal communications device is specifically designed and configured to allow voice and hands-free operation and the device is being used in that manner.

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 purposes of navigation or generating audio transmission, provided that such device is physically mounted to a vehicle;

5. The use of a citizens band radio;

6. Vehicles used or operated by federally licensed amateur radio operators (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or (ii) to provide communications services to localities in the Commonwealth for public service events, including marathons, footraces, or activities authorized by the Department of Transportation or the locality in which the event is being conducted;

7. An operator who activates, deactivates, or initiates a factory-installed feature or function on the vehicle; or

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

C. A violation of this section is shall be punishable as follows:

1. As 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; or

2. If such offense occurs concurrently with an additional traffic offense set forth in Title 18.2 or 46.2, or a valid local ordinance governing traffic, or proximately results in an accident, it shall be punishable as reckless driving as set forth in § 46.2-868.

D. 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 emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency medical services 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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**60**      ~~D.~~ *E.* Distracted driving shall be included as a part of the driver's license knowledge examination.