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HOUSE BILL NO. 181

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 9, 2018)

(Patron Prior to Substitute—Delegate Collins)

A *BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to distracted driving; 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.

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. 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.

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 emergency medical services vehicle designed or used for the principal purpose of emergency medical services 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.

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

A. *For purposes of this section:*

"Handheld personal communications device" does not include a factory-installed feature or function of the vehicle.

"Highway work zone" means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.

B. *Any person who drives a motor vehicle on any highway while using any handheld personal communications device where such use substantially diverts the driver's attention from the operation of the motor vehicle is guilty of distracted driving. Distracted driving is a traffic infraction punishable by a fine of not more than \$500. If the violation occurs in a highway work zone, it is punishable by a mandatory minimum fine of \$250.*

C. *The provisions of this section shall not apply to an operator (i) of any emergency vehicle while he is engaged in the performance of his official duties, (ii) who is lawfully stopped or parked, (iii) using a handheld personal communications device to report an emergency, or (iv) using a handheld radio-based*

60 *communications device during an emergency or disaster relief operation.*

61 *D. A violation of this section shall constitute a separate and distinct offense. The provisions of this*

62 *section shall not preclude prosecution under any other statute.*