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SENATE BILL NO. 275

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 17, 2018)

(Patron Prior to Substitute—Senator Barker)

A BILL to amend and reenact § 46.2-868 of the Code of Virginia, to amend the Code of Virginia by adding in Article 7 of Chapter 8 of Title 46.2 a section numbered 46.2-869.1, and to repeal § 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 § 46.2-868 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 8 of Title 46.2 a section numbered 46.2-869.1 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~~ 46.2-869.1 shall include a mandatory minimum fine of \$250.

§ 46.2-869.1. Distracted driving; penalty.

A. It is unlawful for any person to operate a motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually select multiple icons or enter multiple letters or text in the device; or

2. Read any information displayed on the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device, any information displayed through the use of a global positioning system (GPS) for the purpose of navigation, or 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;

3. The use of factory-installed or aftermarket GPS or wireless communications devices used to transmit or receive data as part of a digital dispatch system;

4. The operator of any Department of Transportation vehicle or vehicle operated pursuant to a Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services, as defined in subsection B of § 46.2-920.1, during the performance of traffic incident management services;

5. Any person using a handheld personal communications device to report an emergency; or

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

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.

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

E. 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

60 *drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a*
61 *request for assistance from a law-enforcement officer; and*
62 *7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white*
63 *secondary warning lights pursuant to § 46.2-1029.2.*
64 **2. That § 46.2-1078.1 of the Code of Virginia is repealed.**