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SENATE BILL NO. 1341

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 23, 2019)

(Patron Prior to Substitute—Senator Stuart)

A *BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to holding handheld personal communications devices while driving a motor vehicle.*

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, while driving a moving motor vehicle on the highways in the Commonwealth while using any, to hold, in his hand, a handheld personal communications device while physically manipulating the device to view, read, or enter data 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;

4. The use of an amateur radio or a citizens band radio; or

5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the 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.

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. If the violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of \$250. For the purposes of this section, "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.

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.

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

2. That the provisions of this act shall become effective on April 1, 2020.

3. That the Virginia Association of Chiefs of Police and DRIVE SMART Virginia shall create training and educational materials on the implementation and enforcement of this act to be made available to law-enforcement agencies.

60 4. That DRIVE SMART Virginia and other traffic safety organizations shall develop and provide
61 educational materials to the public regarding the provisions of this act prior to its effective date.
62 5. That the Chairmen of the Senate and House Committees for Courts of Justice shall annually
63 request the Office of the Executive Secretary to report all of the citations issued pursuant to the
64 provisions of this act and, to the extent available, the relevant demographic characteristics of those
65 persons issued a citation.