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SENATE BILL NO. 1765

Offered January 18, 2019

A BILL to amend and reenact § 46.2-1212.1 of the Code of Virginia, relating to restoration of certain highways; payment of costs.

Patron—Stanley (By Request)

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1212.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1212.1. Authority to provide for removal and disposition of vehicles and cargoes of vehicles involved in accidents.

A. As a result of a motor vehicle accident or incident, the Department of State Police and/or local law-enforcement agency, in conjunction with other public safety agencies, may *restore the highway to its condition prior to such accident or incident, which may include*, without the consent of the owner or carrier, ~~remove the removal of~~.

1. A vehicle, cargo, or other personal property that has been (i) damaged or spilled within the right-of-way or any portion of a roadway in the primary state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

2. Cargo or personal property that the Department of Transportation, the Department of Emergency Management, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste, or regulated substance as defined by the Virginia Waste Management Act (§ 10.1-1400 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1808 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), if the Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Department of Emergency Management or the fire officer in charge.

B. The Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting 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, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies and other local public safety agencies and their officers, employees, and agents, and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation shall not be held responsible for any damages or claims that may result from the failure to exercise any authority granted under this section provided they are acting in good faith.

C. The owner and carrier, if any, of the vehicle, cargo, or personal property removed or disposed of under the authority of this section shall ~~reimburse~~ *be responsible for paying all costs billed for the removal of the property and reimbursing all costs incurred by the Department of Transportation*, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in § 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies, ~~and local public safety agencies for all costs incurred, and individuals or entities acting at the request of the Department of State Police or any local law-enforcement agency in the restoration of the highway, including the removal and subsequent disposition of such property.~~

INTRODUCED

SB1765