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SENATE BILL NO. 1784

Offered January 18, 2019

A BILL to amend and reenact §§ 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia, relating to traffic incident management vehicles.

Patron—Boysko

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1023. Flashing red or red and white warning lights.

Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles of the Virginia National Guard Civil Support Team and the Virginia National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP) when responding to an emergency, vehicles of county, city, or town Departments of Emergency Management, vehicles of the Office of Emergency Medical Services, *traffic incident management vehicles as defined in § 46.2-1029.2*, animal warden vehicles, and vehicles used by security personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

§ 46.2-1029.2. Certain vehicles may be equipped with secondary warning lights.

A. For the purposes of this section, "traffic incident management vehicle" shall mean any (i) Department of Transportation vehicle, when operating at or en route to the scene of a traffic crash or similar emergency; (ii) vehicle operated pursuant to the Department of Transportation Safety Service Patrol program or pursuant to a contract with the Department of Transportation that includes traffic incident management services; or (iv) any other vehicle designated as a traffic incident management vehicle by the Commissioner of the Department of Transportation.

B. In addition to other lights authorized by this article, any (i) fire apparatus, (ii) government-owned vehicle operated on official business by a local fire chief or other local fire official, ~~and~~ (iii) emergency medical services vehicle, *and (iv) traffic incident management vehicle* may be equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted inside the vehicle's taillights or marker lights of a type approved by the Superintendent of State Police.

§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

B. Not more than four lights used to provide general illumination ahead of the vehicle, including at least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through 46.2-1027, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, *responding to traffic incidents*, towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another

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59 vehicle, commonly referred to as "rollbacks," need not be lit while the vehicle is in motion unless it is
60 actually towing a vehicle.

61 D. The failure to display lighted headlights and illuminating devices under the conditions set forth in
62 clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of
63 subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for
64 injuries sustained in a motor vehicle accident.

65 E. No demerit points shall be assessed for failure to display lighted headlights and illuminating
66 devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

67 F. No citation for a violation of clause (iii) of subsection A shall be issued unless the officer issuing
68 such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other
69 provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a
70 motor vehicle or any criminal statute.