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HOUSE BILL NO. 1672

Offered January 17, 2020

A BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to use of handheld personal communications device; use by the operator of a motor vehicle.

Patron—Ware

Referred to Committee on Transportation

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:

1. Any handheld personal communications device to:

~~1. Manually (a) manually enter multiple letters or text in the device as a means of communicating with another person; any text or symbol or any email or text message, or~~

2. Read (b) read any email or text message or view any symbol or picture 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, or

(c) communicate by any other nonvoice method; or

2. Any other electronic device that is not installed in the motor vehicle and is capable of providing a visual display that is in the view of the driver in a normal driving position.

B. It is unlawful for any person while driving a moving motor vehicle in a highway work zone to hold in his hand a handheld personal communications device.

C. 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.

D. A 1. Except as otherwise provided in this subsection, violation of subsection A 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. A violation of subsection B is punishable by a mandatory fine of \$250.

2. Any person who violates the provisions of this section and, in so doing, causes physical injury to another person is guilty of a Class 1 misdemeanor.

3. Any person who violates the provisions of this section and, in so doing, causes serious physical injury to another person is guilty of a Class 6 felony.

4. Any person who violates the provisions of this section and, in so doing, causes the death of another person is guilty of a felony punishable by imprisonment in a state correctional facility for not less than two years nor more than 20 years.

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 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

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59 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
60 secondary warning lights pursuant to § 46.2-1029.2.

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

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

65 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
66 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
67 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
68 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
69 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
70 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
71 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**