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## SENATE BILL NO. 160

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation  
on January 23, 2020)

(Patrons Prior to Substitute—Senators Surovell, Stuart [SB 136], and Saslaw [SB 944])

A *BILL to amend and reenact § 46.2-1078.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1, relating to holding handheld personal communications devices while driving a motor vehicle; report.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1078.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1 as follows:**

**§ 46.2-224.1. Education and oversight of enforcement of highway safety policies; report.**

A. The Commissioner shall establish an advisory council to monitor the effectiveness and enforcement of § 46.2-1078.1. The council shall include members representing (i) a nonprofit organization primarily focused on promoting programs and education related to traffic safety in the Commonwealth, (ii) the Virginia Association of Chiefs of Police, (iii) organizations focused on social equity and justice issues, (iv) the Virginia State Police, and (v) a traffic safety organization. The council shall review whether the enforcement of § 46.2-1078.1 has a disproportionate impact on minority or low-income populations.

B. The Commissioner, working with the Virginia Association of Chiefs of Police and the nonprofit organization described in clause (i) of subsection A, shall create training and educational materials on the implementation and enforcement of § 46.2-1078.1. These materials shall be reviewed by the advisory council established pursuant to subsection A and made available to law-enforcement agencies.

C. The Commissioner, working with the nonprofit organization described in clause (i) of subsection A and other traffic safety organizations, shall create and provide educational materials for the public regarding the provisions of § 46.2-1078.1.

D. The Commissioner shall report annually to the Governor and the General Assembly on (i) the citations issued pursuant to § 46.2-1078.1, including, to the extent available, the relevant demographic characteristics of those persons issued citations, and (ii) any findings of the advisory council created pursuant to subsection A.

**§ 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 a handheld personal communications device 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. 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;

4. The use of an amateur 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.

D. C. A violation of subsection A 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. A If a violation of subsection B is this section occurs in a highway work zone, it shall be punishable by a mandatory fine of \$250.

E. D. For the purposes of this section:

"Emergency vehicle" means:

- 60 1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local  
61 law-enforcement officer *while engaged in the performance of official duties*;
- 62 2. Any regional detention center vehicle operated by or under the direction of a correctional officer  
63 responding to an emergency call or operating in an emergency situation;
- 64 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when  
65 traveling in response to a fire alarm or emergency call;
- 66 4. Any emergency medical services vehicle designed or used for the principal purpose of *supplying*  
67 *resuscitation or emergency medical services relief* where human life is endangered;
- 68 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services  
69 vehicle, when responding to an emergency call or operating in an emergency situation;
- 70 6. Any Department of Corrections vehicle designated by the Director of the Department of  
71 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a  
72 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a  
73 request for assistance from a law-enforcement officer; and
- 74 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white  
75 secondary warning lights pursuant to § 46.2-1029.2.
- 76 "Highway work zone" means a construction or maintenance area that is located on or beside a  
77 highway and is marked by appropriate warning signs with attached flashing lights or other traffic control  
78 devices indicating that work is in progress.
- 79 ~~F. E. Distracted driving shall be included as a part of the driver's license knowledge examination.~~
- 80 **2. That the provisions of this act amending § 46.2-1078.1 of the Code of Virginia shall become**  
81 **effective on January 1, 2021.**