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SENATE BILL NO. 644

Offered January 8, 2020

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A BILL to amend and reenact §§ 46.2-920, 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia, relating to traffic incident management vehicles.

Patrons—Boysko and Vogel; Delegates: Delaney and Gooditis

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-920, 46.2-1023, 46.2-1029.2, and 46.2-1030 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;

2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;

3. Park or stop notwithstanding the other provisions of this chapter;

4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;

5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;

6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or

7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A in subdivisions A1, A3, A4, A5, and A6 shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision A 2 shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and either (a) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (b) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection A shall apply only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least \$100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, the term "emergency vehicle" shall mean:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation or (ii) in response to an emergency call;

2. Any regional detention center vehicle operated by or under the direction of a correctional officer

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59 responding to an emergency call or operating in an emergency situation;

60 3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when
61 traveling in response to a fire alarm or emergency call;

62 4. Any emergency medical services vehicle designed or used for the principal purpose of providing
63 emergency medical services where human life is endangered;

64 5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services
65 vehicle, when responding to an emergency call or operating in an emergency situation;

66 6. Any Department of Corrections vehicle designated by the Director of the Department of
67 Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a
68 drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a
69 request for assistance from a law-enforcement officer;

70 7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white
71 secondary warning lights under the provisions of § 46.2-1029.2; ~~and~~

72 8. Any Virginia National Guard Civil Support Team vehicle when responding to an emergency; *and*

73 9. *A traffic incident management vehicle when operating at or en route to the scene of a traffic*
74 *accident or similar incident. For purposes of this subdivision, "traffic incident management vehicle"*
75 *means (i) a Department of Transportation vehicle, (ii) a vehicle operated pursuant to the Department of*
76 *Transportation Safety Service Patrol program, or (iii) any other vehicle designated as a traffic incident*
77 *management vehicle by the Commissioner of Highways. In order to operate a traffic incident*
78 *management vehicle pursuant to this subdivision, a vehicle operator shall be required to (a) complete an*
79 *initial emergency vehicle operators course from an approved course list provided by the Department of*
80 *Fire Programs, Office of Emergency Medical Services, or equivalent agency and (b) be recertified as an*
81 *emergency vehicle operator every five years.*

82 D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
83 law-enforcement officer may disregard speed limits, while having due regard for safety of persons and
84 property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of
85 speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of
86 determining its speed.

87 E. A Department of Environmental Quality vehicle, while en route to an emergency and with due
88 regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by
89 going off the paved or main traveled portion of the highway on the right or on the left. These
90 Department of Environmental Quality vehicles shall not be required to sound a siren or any device to
91 give automatically intermittent signals, but shall display red or red and white warning lights when
92 performing such maneuvers.

93 F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local
94 law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any
95 other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting
96 himself to criminal prosecution:

97 1. Disregard speed limits, while having due regard for safety of persons and property;

98 2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving
99 traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic
100 light, or device with due regard for the safety of persons and property;

101 3. Park or stop notwithstanding the other provisions of this chapter;

102 4. Disregard regulations governing a direction of movement of vehicles turning in specified directions
103 so long as the operator does not endanger life or property; or

104 5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

105 Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a
106 siren or any device to give automatically intermittent signals.

107 **§ 46.2-1023. Flashing red or red and white warning lights.**

108 Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the
109 Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles
110 of the Virginia National Guard Civil Support Team and the Virginia National Guard Chemical,
111 Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force
112 Package (CERFP) when responding to an emergency, vehicles of county, city, or town Departments of
113 Emergency Management, vehicles of the Office of Emergency Medical Services, *traffic incident*
114 *management vehicles as defined in § 46.2-920*, animal warden vehicles, and vehicles used by security
115 personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the
116 National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas
117 specified in their orders of appointment, by special conservators of the peace and policemen for certain
118 places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or
119 alternating red or red and white combination warning lights of types approved by the Superintendent.
120 Such warning lights may be of types constructed within turn signal housings or motorcycle headlight

121 housings, subject to approval by the Superintendent.

122 **§ 46.2-1029.2. Certain vehicles may be equipped with secondary warning lights.**

123 In addition to other lights authorized by this article, any (i) fire apparatus, (ii) government-owned
124 vehicle operated on official business by a local fire chief or other local fire official, ~~and~~ (iii) emergency
125 medical services vehicle, *and (iv) traffic incident management vehicle as defined in § 46.2-920* may be
126 equipped with alternating, blinking, or flashing red or red and white secondary warning lights mounted
127 inside the vehicle's taillights or marker lights of a type approved by the Superintendent of State Police.

128 **§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of**
129 **warning lights.**

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

137 B. Not more than four lights used to provide general illumination ahead of the vehicle, including at
138 least two headlights and any other combination of fog lights or other auxiliary lights approved by the
139 Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not
140 more than five approved lights in order to provide general illumination ahead of the motorcycle. These
141 limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through
142 46.2-1027, or other lights as may be authorized by the Superintendent.

143 C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall
144 display lighted warning lights as authorized in such sections at all times when responding to emergency
145 calls, *responding to traffic accidents or similar incidents*, towing disabled vehicles, or constructing,
146 repairing, and maintaining public highways or utilities on or along public highways, except that amber
147 lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow
148 another vehicle, commonly referred to as "rollback," need not be lit while the vehicle is in motion
149 unless it is actually towing a vehicle.

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

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

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