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HOUSE BILL NO. 1314

Offered January 22, 1996

A BILL to amend and reenact §§ 27-15.1, 46.2-888, 46.2-894, 46.2-896, and 46.2-1200 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1212.1, relating to abandoned or disabled vehicles.

Patrons—McClure, Callahan, Connally, Darner, Drake, Hargrove, Harris, Keating, O'Brien, Plum, Rollison, Scott and Watts; Senator: Waddell

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 27-15.1, 46.2-888, 46.2-894, 46.2-896, and 46.2-1200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1212.1 as follows:

§ 27-15.1. Authority of chief or other officer in charge when answering alarm or operating at an emergency incident; penalty for refusal to obey orders.

While any fire department or fire company is in the process of answering an alarm or operating at an emergency incident where there is imminent danger or the actual occurrence of fire or explosion or the uncontrolled release of hazardous materials which threaten life or property and returning to the station, the chief or other officer in charge of such fire department or company at that time shall have the authority to: (i) maintain order at such emergency incident or its vicinity, (ii) direct the actions of the ~~fire fighters~~ *firefighters* at the incident, (iii) notwithstanding the provisions of §§ 46.2-888 through 46.2-891, keep bystanders or other persons at a safe distance from the incident and emergency equipment, (iv) facilitate the speedy movement and operation of emergency equipment and ~~fire fighters~~ *firefighters*, (v) cause an investigation to be made into the origin and cause of the incident, and (vi) until the arrival of a police officer, direct and control traffic in person or by deputy and facilitate the movement of traffic. *If the emergency incident occurs on, or causes the closure of all or portions of, an interstate highway or primary road system, as designated by the Department of Transportation, the fire chief or other officer in charge shall cooperate with the police to facilitate the movement of traffic around the incident and restore normal traffic flow in a reasonable time and manner.* The fire chief or other officer in charge shall display his ~~fire fighter's~~ *firefighter's* badge, or other proper means of identification. Notwithstanding any other provision of law, this authority shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of emergency equipment at a fire station. Any person or persons refusing to obey the orders of the fire chief or his deputies or other officer in charge at that time shall be guilty of a Class 4 misdemeanor. The chief or other officer in charge shall have the power to make arrests for violation of the provisions of this section. The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or rescue squads from performing their normal duties when operating at such emergency incident, nor to conflict with or diminish the lawful authority, duties and responsibilities of forest wardens, including but not limited to the provisions of Chapter 11 of Title 10.1. Personnel from the news media, such as the press, radio and television, when gathering the news may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into those areas of the incident that do not, in the opinion of the officer in charge, interfere with the fire department or rescue workers dealing with such emergencies, in which case the chief or other officer in charge may order such person from the scene of the emergency incident.

§ 46.2-888. Stopping on highways; general rule.

No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown. In the event of such an emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. *If possible, the driver shall move the vehicle to prevent obstructing the regular flow of traffic.* A report of the vehicle's location shall be made to the nearest law-enforcement officer as soon as practicable and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

§ 46.2-894. Duty of driver to stop, etc., in event of accident involving injury or death or damage to attended property.

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60 The driver of any vehicle involved in an accident in which a person is killed or injured or in which
61 an attended vehicle or other attended property is damaged shall immediately stop as close to the scene
62 of the accident as possible without obstructing traffic, *pursuant to § 46.2-888*, and report his name,
63 address, driver's license number, and vehicle registration number forthwith to the State Police or local
64 law-enforcement agency, to the person struck and injured if such person appears to be capable of
65 understanding and retaining the information, or to the driver or some other occupant of the vehicle
66 collided with or to the custodian of other damaged property. The driver shall also render reasonable
67 assistance to any person injured in such accident, including taking such injured person to a physician,
68 surgeon, or hospital if it is apparent that medical treatment is necessary or is requested by the injured
69 person.

70 Where, because of injuries sustained in the accident, the driver is prevented from complying with the
71 foregoing provisions of this section, the driver shall, as soon as reasonably possible, make the required
72 report to the State Police or local law-enforcement agency and make a reasonable effort to locate the
73 person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the
74 damaged property, and report to such person or persons his name, address, driver's license number, and
75 vehicle registration number.

76 § 46.2-896. Duties of driver in event of accident involving damage only to unattended property.

77 The driver of any vehicle involved in an accident in which no person is killed or injured, but in
78 which an unattended vehicle or other unattended property is damaged, shall make a reasonable effort to
79 find the owner or custodian of such property and shall report to the owner or custodian the information
80 which the driver is required to report pursuant to § 46.2-894 if such owner or custodian is found. If the
81 owner or custodian of such damaged vehicle or property cannot be found, the driver shall leave a note
82 in a conspicuous place at the scene of the accident and shall report the accident in writing within
83 twenty-four hours to the State Police or, ~~if the accident occurs in a city or town, to the local~~
84 law-enforcement agency. Such note and written report shall contain the information which the driver is
85 required to report pursuant to § 46.2-894 ~~and such~~. The written report shall state in addition the date,
86 time, and place of the accident and the driver's estimate of the property damage.

87 Where, ~~as a result because~~ of injuries sustained in the accident, the driver is prevented from
88 complying with the ~~above foregoing~~ provisions of this section, the driver shall, as soon as reasonably
89 possible, make the required report to the State Police or local law-enforcement agency and make a
90 reasonable effort to ~~find~~ locate the owner or custodian of the unattended vehicle or property and report
91 to such person ~~or persons such~~ the information as is required ~~to be reported pursuant to~~ by § 46.2-894.

92 § 46.2-1200. Definitions.

93 As used in this article:

94 "Abandoned motor vehicle" means a motor vehicle, trailer, or semitrailer or part of a motor vehicle,
95 trailer, or semitrailer that:

96 1. Is inoperable and is left unattended on public property, *other than an interstate highway or*
97 *primary roadway as designated by the Department of Transportation*, for more than forty-eight hours, or

98 2. Has remained illegally on public property for more than forty-eight hours, or

99 3. Has remained for more than forty-eight hours on private property without the consent of the
100 property's owner, regardless of whether it was brought onto the private property with the consent of the
101 owner or person in control of the private property, *or*

102 4. *Is inoperable or left unattended, or both, within the right-of-way of an interstate highway, or*

103 5. *Is inoperable or left unattended, or both, on the shoulder of a primary road, as designated by the*
104 *Department of Transportation or a locality, for more than twenty-four hours.*

105 "Inoperable abandoned motor vehicle" means an abandoned motor vehicle which is inoperable and
106 whose fair market value, as determined by the locality's official responsible for assessing motor vehicles
107 under § 58.1-3503, is less than the cost of its restoration to an operable condition.

108 § 46.2-1212.1 *Authority to provide for removal and disposition of vehicles and cargoes of vehicles*
109 *involved in accidents.*

110 A. *As the result of a motor vehicle accident or incident, the Department of Transportation may,*
111 *without the consent of the owner or carrier, remove:*

112 1. *A vehicle, cargo or other personal property damaged or spilled within the right-of-way or any*
113 *portion of a roadway in the state highway system if the State Police or local law-enforcement agency*
114 *determines that the vehicle, cargo or personal property is blocking the roadway or may otherwise be*
115 *endangering public safety.*

116 2. *Cargo or personal property that the Department of Transportation or the Department of*
117 *Emergency Services has reason to believe is a hazardous material, as defined by the Hazardous*
118 *Materials Transportation Act (49 U.S.C. § 1801 et seq.) or a hazardous substance as defined by the*
119 *Virginia Waste Management Act (§ 10.1-1400 et seq.), if the Department of Transportation complies*
120 *with the applicable procedures and instructions defined by the Department of Emergency Services.*

121 B. *The Department of Transportation and the Department of State Police and their officers,*

122 *employees or agents, shall not be held responsible for any damages or claims that may result from the*
123 *failure to exercise any authority granted under this section.*
124 *C. The owner and carrier, if any, of the vehicle, cargo or personal property removed or disposed of*
125 *under the authority of this section shall reimburse the Department of Transportation for all costs*
126 *incurred in the removal and subsequent disposition.*

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