

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 300

An Act to amend and reenact § 46.2-1079 of the Code of Virginia, relating to radar jamming devices.

[H 445]

Approved April 8, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1079 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1079. Radar detectors; demerit points not to be awarded.

A. It shall be unlawful for any person to operate a motor vehicle on the highways of the Commonwealth when such vehicle is equipped with any device or mechanism, *passive or active*, to detect or purposefully interfere with or diminish the measurement capabilities of any radar, laser, or other device or mechanism employed by law-enforcement personnel to measure the speed of motor vehicles on the highways of the Commonwealth for law-enforcement purposes. It shall be unlawful to use any such device or mechanism on any such motor vehicle on the highways. It shall be unlawful to sell any such device or mechanism in the Commonwealth. However, provisions of this section shall not apply to any receiver of radio waves utilized for lawful purposes to receive any signal from a frequency lawfully licensed by any state or federal agency.

This section shall not be construed to authorize the forfeiture to the Commonwealth of any such device or mechanism. Any such device or mechanism may be taken by the arresting officer if needed as evidence, and, when no longer needed, shall be returned to the person charged with a violation of this section, or at that person's request, and his expense, mailed to an address specified by him. Any unclaimed devices may be destroyed on court order after six months have elapsed from the final date for filing an appeal.

Except as provided in subsection B of this section, the presence of any such prohibited device or mechanism in or on a motor vehicle on the highways of the Commonwealth shall constitute prima facie evidence of the violation of this section. The Commonwealth need not prove that the device or mechanism in question was in an operative condition or being operated.

B. ~~No~~ A person shall *not* be guilty of a violation of this section when the device or mechanism in question, at the time of the alleged offense, had no power source and was not readily accessible for use by the driver or any passenger in the vehicle.

C. This section shall not apply to motor vehicles owned by the Commonwealth or any political subdivision thereof and used by law-enforcement officers in their official duties, nor to the sale of any such device or mechanism to law-enforcement agencies for use in their official duties.

D. No demerit points shall be awarded by the Commissioner for violations of this section. Any demerit points awarded by the Commissioner prior to July 1, 1992, for any violation of this section shall be rescinded and the driving record of any person awarded demerit points for a violation of this section shall be amended to reflect such rescission.