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SENATE BILL NO. 720

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 18, 1999)

(Patrons Prior to Substitute—Senators Edwards, Barry [SBs 719, 1206, and 1207], Howell [SB 753], Schrock [SBs 804 and 812], Stosch [SB 993], Williams [SB 1031], and Woods [SB 871])

A BILL to amend and reenact §§ 33.1-46.2, 46.2-743, 46.2-749.3, and 46.2-749.4 of the Code of Virginia and to amend the Code of Virginia by adding in Article 10 of Chapter 6 of Title 46.2 sections numbered 46.2-749.12 through 46.2-749.17, relating to high-occupancy vehicle facilities, and special license plates.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-46.2, 46.2-743, 46.2-749.3, and 46.2-749.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 10 of Chapter 6 of Title 46.2 sections numbered 46.2-749.12 through 46.2-749.17 as follows:

§ 33.1-46.2. Designation of high-occupancy vehicle lanes; use of such lanes; penalties.

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any highway in the interstate, primary, or secondary highway systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been appropriately marked with such signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,
2. Law-enforcement vehicles,
3. Motorcycles,

4. a. Transit and commuter buses designed to transport sixteen or more passengers, including the driver,

b. Commuter buses and motorcoaches operating under irregular route passenger certificates issued under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or as a common carrier of passengers under § 46.2-2004 or § 46.2-2010,

5. Vehicles of public utility companies operating in response to an emergency call, or

6. Until July 1, 1999 2004, vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when, because of an accident, emergency, or other exceptional circumstance, (i) restricting use of HOV lanes becomes impossible or undesirable and (ii) the temporary lifting of HOV limitations is indicated by law-enforcement officers at the scene or by signs along or above the affected portion of highway.

B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing body as the case may be, shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be a moving violation and on conviction shall be fined fifty dollars. However, violations committed within the boundaries of Planning District Eight shall be punishable as follows:

For a first offense, by a fine of fifty dollars;

For a second offense, by a fine of \$100;

For a third offense within a period of two years of the second offense, by a fine of \$250; and

For a fourth or subsequent offense within a period of three years of the second offense, by a fine of \$500.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which

60 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
61 driver demerit points shall be assessed for any violation of this section.

62 C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of
63 failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy
64 vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of
65 this section, together with proof that the defendant was at the time of such violation the registered
66 owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of
67 the vehicle was the person who committed the violation. Such presumption shall be rebutted if the
68 registered owner of the vehicle testifies in open court under oath that he was not the operator of the
69 vehicle at the time of the violation. A summons for a violation of this section may be executed in
70 accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of
71 the vehicle is a rental or leasing company.

72 D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section
73 is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof
74 to the address of the owner of the vehicle as shown on the records of the Department of Motor
75 Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed
76 pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

77 No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his
78 failure to appear on the return date of the summons.

79 E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3)
80 may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without
81 paying a toll.

82 F. Notwithstanding the contrary provisions of this section, the following conditions shall be met
83 before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to
84 HOV-3 or any more restrictive designation:

85 1. The Department shall publish a notice of its intent to change the existing designation and also
86 immediately provide similar notice of its intent to all members of the General Assembly representing
87 districts that touch or are directly impacted by traffic on Interstate Route 66.

88 2. The Department shall hold public hearings in the corridor to receive comments from the public.

89 3. The Department shall make a finding of the need for a change in such designation, based on
90 public hearings and its internal data and present this finding to the Commonwealth Transportation Board
91 for approval.

92 4. The Commonwealth Transportation Board shall make written findings and a decision based upon
93 the following criteria:

94 a. Is changing the HOV-2 designation to HOV-3 in the public interest?

95 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate
96 the flow of traffic on Interstate Route 66?

97 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act
98 Amendments of 1990?

99 § 46.2-743. Special license plates for certain veterans.

100 A. On receipt of an application and written evidence that the applicant is an honorably discharged
101 former member of one of the armed forces of the United States, the Commissioner shall issue to the
102 applicant special license plates.

103 B. On receipt of an application and written evidence that the applicant is ~~an~~ on active duty with, has
104 been honorably discharged after at least six months of active duty service in, or has retired member of
105 from the United States Army, Navy, Air Force, or Marine Corps, the Commissioner shall issue to the
106 applicant special license plates whose design incorporates an emblem of the military service of which
107 the applicant is an active duty or retired member.

108 C. On receipt of an application and written evidence that the applicant is a veteran of World War II,
109 the Commissioner shall issue special license plates to veterans of World War II.

110 D. On receipt of an application and written evidence that the applicant is a veteran of the Korean
111 War, the Commissioner shall issue special license plates to veterans of the Korean War.

112 E. On receipt of an application and written evidence that the applicant is a veteran of the Vietnam
113 War, the Commissioner shall issue special license plates to veterans of the Vietnam War.

114 F. On receipt of an application and written evidence that the applicant is a veteran of Operation
115 Desert Shield or Operation Desert Storm, the Commissioner shall issue special license plates to veterans
116 of those military operations.

117 G. The provisions of subdivisions 1 and 2 of subsection B of § 46.2-725 shall not apply to license
118 plates issued under subsection A, C, D, or E of this section.

119 § 46.2-749.3. Special license plates for clean special fuel vehicles.

120 The owner of any pickup truck, panel truck, or motor vehicle designed and used for the
121 transportation of passengers, except a motorcycle, which that may utilize clean special fuel may

purchase special license plates indicating the motor vehicle utilizes clean special fuels. Upon receipt of an application, the Commissioner shall issue special license plates to the owners of such vehicles. Notwithstanding § 46.2-725, for license plates issued under this section prior to July 1, 1998, the Commissioner shall charge only the prescribed cost of state license plates, and no additional fee shall be charged.

For those motor vehicles required by law to display official government-use license plates, the Commissioner shall provide by regulation for the issuance, display, and fee for issuance of an alternative device indicating that the vehicle displaying the device is a clean special fuel vehicle. For the purposes of § 33.1-46.2, vehicles displaying such a device as provided in such regulation shall be treated as vehicles displaying special license plates issued under this section.

§ 46.2-749.4. Special license plates bearing the seal, symbol, emblem, or logotype of certain localities.

On receipt of a minimum of 350 paid applications therefor, the Commissioner may design and issue special license plates whose design incorporates the seal, symbol, emblem, or logotype of any county, town, or city.

The annual fee for plates issued pursuant to this section shall be twenty-five dollars plus the prescribed fee for state license plates. For each such twenty-five-dollar fee collected in excess of 1,000 registrations pursuant to this section, fifteen dollars shall be paid to the locality whose seal, symbol, emblem, or logotype appears on the plate. These funds shall be paid to the affected localities annually and may be used as provided by the local governing body.

§ 46.2-749.12. Special license plates; members of the Amateur Radio Emergency Service (ARES).

On receipt of an application therefor and presentation of written evidence that the applicant is a member of the Amateur Radio Emergency Service (ARES), the Commissioner shall issue to the applicant special license plates.

§ 46.2-749.13. Special license plates; members of the Virginia State Police Alumni, Inc.

On receipt of an application, presentation of written evidence that the applicant is a member of the Virginia State Police Alumni, Inc., the Commissioner shall issue special license plates to members of the Virginia State Police Alumni, Inc.

§ 46.2-749.14. Special license plates; Oceana Naval Air Station.

On receipt of an application therefor, the Commissioner shall issue to the applicant special license plates bearing the legend: OCEANA NAVAL AIR STATION.

§ 46.2-749.15. Special license plates; supporters of Operation Wildflower; fees.

A. On receipt of an application and payment of the fee prescribed by this section, the Commissioner shall issue special license plates to supporters of Operation Wildflower.

B. The annual fee for plates issued pursuant to this section shall be twenty-five dollars in addition to the prescribed fee for state license plates. For each such twenty-five-dollar fee collected in excess of 1,000 registrations pursuant to this section, fifteen dollars shall be paid into the state treasury and credited to a special nonreverting fund known as the Operation Wildflower Fund, established within the Department of Accounts. These funds shall be paid annually to the Virginia Department of Transportation and used to support its Operation Wildflower program.

§ 46.2-749.16. Special license plates; supporters of the Boy Scouts of America.

On receipt of an application therefor, the Commissioner shall issue special license plates to supporters of the Boy Scouts of America.

§ 46.2-749.17. Special license plates; Virginia lighthouses.

On receipt of an application therefor, the Commissioner shall issue to the applicant special license plates celebrating Virginia lighthouses.