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HOUSE BILL NO. 1342

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 8, 2002)

(Patrons Prior to Substitute—Delegates O'Brien and Melvin [HB1057])

A BILL to amend and reenact §§ 46.2-411 and 46.2-492 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-868.1, establishing the offense of aggressive driving; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-411 and 46.2-492 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-868.1, as follows:

§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle; proof of financial responsibility; reinstatement fee.

The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public on the highways in the Commonwealth.

Before granting or restoring a license or registration to any person whose driver's license or other privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended pursuant to §§ 46.2-389, 46.2-391, 46.2-391.1 or § 46.2-417, the Commissioner shall require proof of financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.) of this chapter, but no person shall be licensed who may not be licensed under the provisions of §§ 46.2-389 through 46.2-431.

Whenever the driver's license or registration cards, license plates and decals, or other privilege to drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to complying with all other provisions of law, pays to the Commissioner a reinstatement fee of thirty dollars. The reinstatement fee shall be increased by thirty dollars whenever such suspension or revocation results from conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation of § 18.2-266 or § 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2; conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation of § 46.2-301 or § 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2; *conviction of aggressive driving in violation of § 46.2-868.1*, or a conviction, finding or adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the additional amount shall be retained by the Department as provided in this section and twenty-five dollars shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1. When three years have elapsed from the termination date of the order of suspension or revocation and the person has complied with all other provisions of law, the Commissioner may relieve him of paying the reinstatement fee.

No reinstatement fee shall be required when the suspension or revocation of license results from the person's suffering from mental or physical infirmities or disabilities from natural causes not related to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any person whose license is suspended by a court of competent jurisdiction for any reason, other than a cause for mandatory suspension as provided in this title, provided the court ordering the suspension is not required by § 46.2-398 to forward the license to the Department during the suspended period.

Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

§ 46.2-492. Uniform Demerit Point System.

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60 A. The Commissioner shall assign point values to those convictions, or findings of not innocent in
61 the case of a juvenile, which are required to be reported to the Department in accordance with
62 § 46.2-383 for traffic offenses committed in violation of the laws of the Commonwealth or any county,
63 city, or town ordinance paralleling and substantially conforming to state law, provided that no
64 conviction, or finding of not innocent in the case of a juvenile for any offense, relating to registration,
65 insurance, or equipment shall be included except as otherwise provided by this title.

66 B. The Commissioner shall assign point values to those convictions received from any other state of
67 the United States, the United States, Canada or its provinces, or any territorial subdivision of any of
68 them, of an offense therein, which if committed in this Commonwealth, would be required to be
69 reported to the Department by § 46.2-383.

70 C. No point assignment shall be made for any conviction which results from a vehicle having been
71 parked or stopped, in order for the driver to sleep or rest, on the shoulder or other portion of a highway
72 not ordinarily used for vehicular traffic. The court shall make a separate finding on this issue and note
73 such finding on the conviction record.

74 D. The Uniform Demerit Point System standard for rating convictions of traffic offenses shall be
75 based on the severity of the offense and the potential hazardous exposure to other users of the highways
76 and streets. The Commissioner shall designate the point values assigned to convictions, or findings of
77 not innocent in the case of a juvenile, on a graduated scale not to exceed six demerit points for any
78 single conviction. The Commissioner shall develop point system assignments as follows:

79 1. Serious traffic offenses such as driving while intoxicated in violation of § 18.2-266, persons under
80 age twenty-one driving after illegally consuming alcohol in violation of § 18.2-266.1, reckless driving in
81 violation of § 46.2-852, speeding twenty or more miles per hour above the posted speed limit, racing in
82 violation of § 46.2-865, and other serious traffic offenses as the Commissioner may designate, shall be
83 assigned six demerit points.

84 2. Relatively serious traffic offenses such as failure to yield the right-of-way in violation of
85 §§ 46.2-820 through 46.2-823, speeding between ten and nineteen miles per hour above the posted speed
86 limit, following too closely in violation of § 46.2-816, failure to stop when entering a highway in
87 violation of § 46.2-863, *aggressive driving in violation of § 46.2-868.1* and other relatively serious traffic
88 offenses as the Commissioner may designate, shall be assigned four demerit points.

89 3. Traffic offenses of a less serious nature such as improper driving in violation of § 46.2-869,
90 speeding between one and nine miles per hour above the posted speed limit, improper passing in
91 violation of § 46.2-838, failure to obey a highway sign in violation of § 46.2-830 and other offenses of a
92 less serious nature as the Commissioner may designate, shall be assigned three demerit points.

93 E. When a person is convicted of two or more traffic offenses committed on a single occasion, he
94 shall be assessed points for one offense only and if the offenses involved have different point values, he
95 shall be assessed points for the offense having the greater point value.

96 § 46.2-868.1. *Aggressive driving; penalties.*

97 A. *A person is guilty of aggressive driving if (i) the person violates one or more of the following:*
98 *§ 46.2-802 (Drive on right side of highways), § 46.2-804 (Failure to observe lanes marked for traffic),*
99 *§ 46.2-816 (Following too closely), § 46.2-821 (Vehicles before entering certain highways shall stop or*
100 *yield right-of-way), § 46.2-833.1 (Evasion of traffic control devices), § 46.2-838 (Passing when*
101 *overtaking a vehicle), § 46.2-841 (When overtaking vehicle may pass on right), § 46.2-842 (Driver to*
102 *give way to overtaking vehicle), § 46.2-842.1 (Driver to give way to certain overtaking vehicles on*
103 *divided highway), § 46.2-843 (Limitations on overtaking and passing), any provision of Article 8*
104 *(§ 46.2-870 et seq.) of Title 46.2 (Speed), or § 46.2-888 (Stopping on highway); and (ii) that person is a*
105 *hazard to another person and commits an offense in clause (i) with the intent to harass, intimidate,*
106 *injure or obstruct another person.*

107 B. *Aggressive driving shall be punished as a Class 2 misdemeanor. In addition, the court may*
108 *require successful completion of an aggressive driving program.*