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HOUSE BILL NO. 377

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 46.2-206.1 of the Code of Virginia, relating to community service sanction as alternative to civil remedial (abusive driver) fees.

Patron—Marshall, D.W.

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-206.1 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-206.1. (Contingent expiration date - see Editor's note) Imposition of certain additional fees on certain drivers.

A. The purpose of the civil remedial fees imposed in this section is to generate revenue from drivers whose proven dangerous driving behavior places significant financial burdens upon the Commonwealth. The civil remedial fees established by this section shall be in addition to any other fees, costs, or penalties imposed pursuant to the Code of Virginia.

B. The civil remedial fees established by this section shall be assessed on any resident of Virginia operating a motor vehicle on the highways of Virginia, including persons to whom Virginia driver's licenses, commercial driver's licenses, or learner's permits have been issued pursuant to this title; and persons operating motor vehicles without licenses or whose license has been revoked or suspended.

C. The court shall assess a person with the following fees upon each conviction of the following offenses:

1. Driving while his driver's license was suspended or revoked pursuant to § 18.2-272, 46.2-301, 46.2-302, 46.2-341.21, or 46.2-391 shall be assessed a fee to be paid in three annual payments of \$250 each;

2. Reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 or aggressive driving in violation of § 46.2-868.1 shall be assessed a fee to be paid in three annual payments of \$350 each;

3. Driving while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 shall be assessed a fee to be paid in three annual payments of \$750 each;

4. Any other misdemeanor conviction for a driving and/or motor vehicle related violation of Title 18.2 or this title that is not included in one of the preceding three subdivisions shall be assessed a fee to be paid in three annual payments of \$300 each; and

5. Any felony conviction for a driving or motor vehicle-related offense under Title 18.2 or this title, shall be assessed a fee to be paid in three annual payments of \$1,000 each.

D. For the purposes of subsection C:

1. A finding of guilty in the case of a juvenile and a conviction under a substantially similar valid local ordinance of any locality of the Commonwealth, shall be a conviction.

2. The fees assessed under subsection C shall be implemented in a manner whereby no convictions for offenses committed prior to July 1, 2007, shall be considered.

E. The court shall collect, in full, the first annual payment of the fee imposed under subsection C at the time of conviction and shall order the person assessed a fee to submit the second annual payment to the Department within 14 calendar months of the date of conviction and the third annual payment to the Department within 26 months of the date of conviction. When transmitting conviction information to the Department the court shall also transmit notice that a fee has been imposed under this section and the deadline upon which the second and third annual payments must be submitted to the Department. The court shall order suspension of the driver's license or privilege to drive a motor vehicle in Virginia as provided in § 46.2-395 of any person failing to pay the first annual payment of the fee assessed under subsection C.

F. For all convictions reported to the Department for which fees are established under subsection C, the person assessed the fee shall submit the second annual payment to the Commissioner within 14 calendar months of the date of conviction and the third annual payment within 26 months of the date of conviction. The Commissioner, or his designee, shall establish guidelines, policies, or procedures to notify every person assessed a fee pursuant to subsection C of the second and the third annual payments. If the person fails to make such payment, the Commissioner shall suspend his driver's license or privilege to operate a motor vehicle in Virginia. No license shall be reissued or reinstated until all fees assessed pursuant to this section have been paid and all other reinstatement requirements as provided in this title have been satisfied.

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59 G. In addition to any fees set forth in subsection C, any person whose driver's record with the
60 Department shows a balance of eight or more driver demerit points on July 15 shall be assessed a fee of
61 \$100 plus \$75 for each demerit point in excess of eight, but not greater than \$700, provided that only
62 those demerit points attributable to offenses which occurred on or after July 1, 2007 shall be used to
63 calculate and assess such fees.

64 H. The Commissioner, or his designee, shall assess the fees set forth in subsection G annually,
65 beginning on July 15, 2007.

66 I. The Commissioner, or his designee, shall establish guidelines, policies, or procedures to notify
67 every person assessed a fee pursuant to subsection G. If any assessment made under subsection G
68 remains unpaid 60 days following the date on which the notice of assessment was mailed, the
69 Commissioner shall suspend the driver's license or privilege to drive a motor vehicle in Virginia of the
70 person against whom the assessment was imposed. No license shall be reissued or reinstated until all
71 fees assessed pursuant to this section have been paid and all other reinstatement requirements as
72 provided in this title have been satisfied.

73 J. In the event that a person disputes a conviction on his driver's record based upon identity, if the
74 person presents the Department a certified copy of a petition to a court of competent jurisdiction seeking
75 to vacate an order of such conviction, the Department shall suspend the imposition of the assessment.
76 Such suspension shall be valid for one year from the date of the commencement or until 30 days after
77 an entry of a final order on such petition, whichever occurs first.

78 *K. The court shall inquire of a person subjected to the payment of fees required by this section*
79 *whether the person is able to pay or such payment will present a substantial hardship. If the court finds*
80 *that the person is unable to pay or payment will present a substantial hardship, the court may require*
81 *that the person perform community service, the length of which is commensurate with the amount of*
82 *civil remedial fees the person would otherwise have been required to pay, as an alternative to payment*
83 *of the fees.*

84 ~~K~~L. Funds collected through the imposition of the fees as provided for in this section shall be used
85 to pay the Department's cost in imposing and collecting such assessments as provided in the general
86 appropriation act, and any remainder shall be deposited into the Highway Maintenance and Operating
87 Fund.