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SENATE BILL NO. 915

Senate Amendments in [] — January 19, 2011

A *BILL to amend and reenact §§ 16.1-69.48:1, 17.1-275.7, 46.2-700, 46.2-908.3, 46.2-1157, and 46.2-1158.1 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-1158.01 and 46.2-1158.02, and to repeal § 46.2-1161 of the Code of Virginia, relating to the inspection of motor vehicles.*

Patron Prior to Engrossment—Senator McDougle

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:1, 17.1-275.7, 46.2-700, 46.2-908.3, 46.2-1157, and 46.2-1158.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1158.01 and 46.2-1158.02 as follows:

§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.

A. Assessment of the fees provided for in this section shall be based on: (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§ 46.2-104 and ~~46.2-1157~~ ~~46.2-1158.01~~ 46.2-1158.02] .

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D of this section more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);

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60 7. Drug Offender Assessment and Treatment Fund (.551471);
61 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
62 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).
63 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
64 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
65 law, to the following funds in the fractional amounts designated:
66 1. Processing fee (General Fund) (.764706);
67 2. Virginia Crime Victim-Witness Fund (.058824);
68 3. Regional Criminal Justice Training Academies Fund (.019608);
69 4. Courthouse Construction/Maintenance Fund (.039216);
70 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
71 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).
72 § 17.1-275.7. Fixed misdemeanor fee.
73 In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony;
74 (ii) a deferred disposition of proceedings in the case of any and each misdemeanor not originally
75 charged as a felony and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8,
76 16.1-278.9, 18.2-57.3, or 19.2-303.2; (iii) any and each conviction of a traffic infraction or referral to a
77 driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic infraction; or (iv)
78 proof of compliance with law under §§ 46.2-104 and ~~46.2-1157~~ [~~46.2-1158.01~~ 46.2-1158.02], there
79 shall be assessed as court costs a fee of \$70, to be known as the fixed misdemeanor fee. However, this
80 section shall not apply to those proceedings provided for in § 17.1-275.8. This fee shall be in addition to
81 any fee assessed in the district court.
82 The amount collected, in whole or in part, for the fixed misdemeanor fee shall be apportioned, as
83 provided by law, to the following funds in the fractional amounts designated:
84 1. Sentencing/supervision fee (General Fund) (.0142857);
85 2. Witness expenses/expert witness fee (General Fund) (.0285714);
86 3. Virginia Crime Victim-Witness Fund (.0428571);
87 4. Intensified Drug Enforcement Jurisdiction Fund (.0571429);
88 5. Criminal Injuries Compensation Fund (.2857143);
89 6. Commonwealth's Attorney Fund (state share) (.0357143);
90 7. Commonwealth's Attorney Fund (local share) (.0357143);
91 8. Regional Criminal Justice Academy Training Fund (.0142857);
92 9. Warrant fee, as prescribed by § 17.1-272 (.1714286);
93 10. Courthouse Construction/Maintenance Fund (.0285714); and
94 11. Clerk of the circuit court (.2857143).
95 § 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile
96 equipment.
97 A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling
98 machinery is attached and which is permanently used solely for transporting the machinery shall be \$15.
99 B. The fee for the registration of specialized mobile equipment shall be \$15. "Specialized mobile
100 equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than
101 for the transportation of passengers or property, which is used on a job site and whose movement on
102 any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must
103 be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110,
104 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of
105 maintaining sustained highway speeds of 40 miles per hour or more. ~~Vehicles registered under this~~
106 ~~section shall be exempt from the requirements of § 46.2-1157.~~ Nothing in this subsection shall be
107 construed as prohibiting the transportation on specialized mobile equipment of safety equipment,
108 including but not limited to highway traffic safety cones, to be used on a job site.
109 C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of 40
110 miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose
111 and whose movement on the highway is incidental to the purpose for which it was manufactured and
112 which are not designed or used to transport persons or property, shall not be required to be registered
113 under this chapter.
114 § 46.2-908.3. Low-speed vehicles; operation on highways; license required; registration required;
115 safety and emissions inspections not required.
116 Low-speed vehicles may be operated on public highways where the maximum speed limit is no
117 greater than thirty-five miles per hour, but this limitation shall not prohibit the operation of low-speed
118 vehicles across intersections with highways whose maximum speed limits are greater than thirty-five
119 miles per hour. Operation of low-speed vehicles shall be prohibited on any highway where the
120 Department of Transportation or the local governing body of the locality having control of the highway,
121 as the case may be, has prohibited their operation in the interest of safety and such prohibition is

indicated by conspicuously posted signs.

Low-speed vehicles shall be operated on public highways only by persons who hold driver's licenses or learner's permits issued as provided in Chapter 3 (§ 46.2-300 et seq.) of this title.

Low-speed vehicles shall be titled and registered as provided in Chapter 6 (§ 46.2-600 et seq.) of this title and shall be subject to the same requirements as to insurance applicable to other motor vehicles under that chapter.

The operator of any low-speed vehicle being operated on the highways in the Commonwealth shall have in his possession: (i) the registration card issued by the Department or the registration card issued by the state or country in which the low-speed vehicle is registered, and (ii) his driver's license, learner's permit, or temporary driver's permit.

The provisions of Article 21 (§ 46.2-1157 et seq.) and Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of this title shall not apply to low-speed vehicles.

§ 46.2-1157. Inspection of motor vehicles required.

A. The Superintendent may compel, by proclamation of the Governor or otherwise, the owner or operator of any motor vehicle, trailer, or semitrailer registered in Virginia and operated or parked on a highway within this the Commonwealth to *shall* submit his vehicle to an inspection of its mechanism and equipment by an official inspection station, designated for that purpose, in accordance with § 46.2-1158. No owner or operator shall fail to submit a motor vehicle, trailer, or semitrailer operated or parked on the highways in this the Commonwealth to such inspection or fail or refuse to correct or have corrected in accordance with the requirements of this title any mechanical defects found by such inspection to exist.

B. The provisions of this section requiring safety inspections of motor vehicles shall also apply to vehicles used for fire fighting; inspections of fire-fighting vehicles shall be conducted pursuant to regulations promulgated by the Superintendent of State Police, taking into consideration the special purpose of such vehicles and the conditions under which they operate.

C. Each day during which such motor vehicle, trailer, or semitrailer is operated or parked on any highway in this the Commonwealth after failure to comply with this law shall constitute a separate offense. However, no penalty shall be imposed on any owner or operator for operation of a motor vehicle, trailer, or semitrailer after the expiration of a period fixed for the inspection thereof, over the most direct route between the place where such vehicle is kept or garaged and an official inspection station, for the purpose of having it inspected pursuant to a prior appointment with such station.

Further, no penalty shall be imposed on any owner or operator of a truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth and that penalty is for operation of such vehicle (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) after being unloaded, will be operated only to an inspection station or to the place where it is kept or garaged within the Commonwealth.

Notwithstanding other provisions of this section, a new motor vehicle, as defined in § 46.2-1500, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508 shall be deemed to have met the safety inspection requirements of the section without a separate safety inspection by an official inspection station. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163.

Any commercial motor vehicle that is subject to the Federal Motor Carrier Safety Regulations shall not be subject to the requirements for inspection contained in this section until the commercial motor vehicle has returned to the Commonwealth if:

1. The commercial motor vehicle is registered in Virginia but domiciled or garaged outside the Commonwealth;

2. Such commercial motor vehicle is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program;

3. Any inspection authorized by subdivision 2 has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of Title 49, Code of Federal Regulations, Part 396; and

4. Documentation of such determination as provided for in subdivision 3 is available for review by law-enforcement officials to verify that the inspection is current.

183 Further, any trailer or semitrailer that (i) has a gross vehicle weight rating of 26,001 pounds or more
184 and (ii) is operated in interstate commerce shall be deemed to comply with the requirements of this
185 section if documentation on the vehicle that is available for inspection by law-enforcement officials
186 verifies that an inspection performed pursuant to Title 49, Code of Federal Regulations, Part 396, is
187 current and valid.

188 The provisions of this section shall not apply to any vehicle for transporting well-drilling machinery
189 licensed under ~~§ 46.2-700~~ or to any antique motor vehicle or antique trailer as defined in ~~§ 46.2-100~~ and
190 licensed pursuant to ~~§ 46.2-730~~.

191 Notwithstanding the penalty provisions of ~~§ 46.2-1171~~, a violation of this section constitutes a traffic
192 infraction. The court may, in its discretion, dismiss a summons issued under this section where
193 correction of vehicle or safety equipment defects or proof of compliance with this section is provided to
194 the court subsequent to the issuance of the summons to appear, but such dismissal shall not operate to
195 relieve the vehicle owner or operator from the court costs provided.

196 *§ 46.2-1158.01. Exceptions to motor vehicle inspection requirement.*

197 *A. The following shall be exempt from inspection as required by § 46.2-1157:*

198 *1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;*

199 *2. Boat, utility, or travel trailers that are not equipped with brakes;*

200 *3. Antique motor vehicles or antique trailers as defined in § 46.2-100 and licensed pursuant to*
201 *§ 46.2-730;*

202 *4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its*
203 *inspection expires when operated by the most direct route to the owner's or operator's place of*
204 *residence or the owner's legal place of business in the Commonwealth;*

205 *5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired*
206 *while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the*
207 *place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the*
208 *Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth,*
209 *(b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection*
210 *station or to the place where it is kept or garaged within the Commonwealth;*

211 *6. New motor vehicles, new trailers, or new semitrailers may be operated upon the highways of*
212 *Virginia for the purpose of delivery from the place of manufacture to the dealer's or distributor's*
213 *designated place of business or between places of business if such manufacturer, dealer, or distributor*
214 *has more than one place of business, without being inspected; dealers or distributors may take delivery*
215 *and operate upon the highways of Virginia new motor vehicles, new trailers, or new semitrailers from*
216 *another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered*
217 *new if driven upon the highways for any purpose other than the delivery of the vehicle;*

218 *7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license may be*
219 *operated for test purposes by the manufacturer without an inspection;*

220 *8. Motor vehicles, trailers, or semitrailers may be operated for test purposes by a certified inspector*
221 *without an inspection sticker during the performance of an official inspection;*

222 *9. New motor vehicles, new trailers, or new semitrailers may be operated upon the highways of*
223 *Virginia over the most direct route to a location for installation of a permanent body without being*
224 *inspected;*

225 *10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth may be driven to*
226 *the purchaser's place of residence or the dealer's or distributor's designated place of business without*
227 *being inspected;*

228 *11. Prior to purchase from auto auctions within the Commonwealth, motor vehicles, trailers, or*
229 *semitrailers may be operated upon the highways not to exceed a five-mile radius of such auction by*
230 *prospective purchasers only for the purpose of road testing without being inspected; motor vehicles,*
231 *trailers, or semitrailers purchased from auto auctions within the Commonwealth also may be operated*
232 *upon the highways from such auction to the purchaser's place of residence or business without being*
233 *inspected;*

234 *12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection*
235 *thereof, may be operated over the most direct route between the place where such vehicle is kept or*
236 *garaged and an official inspection station for the purpose of having the same inspected pursuant to a*
237 *prior appointment with such station;*

238 *13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in*
239 *§ 46.2-700;*

240 *14. Motor vehicles being towed in a legal manner as exempted under § 46.2-1150;*

241 *15. Logtrailers as exempted under § 46.2-1159;*

242 *16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes*
243 *as exempted under § 46.2-1160;*

244 *17. Any tow dolly or converter gear as defined in § 46.2-1119;*

18. A new motor vehicle, as defined in § 46.2-1500, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508 shall be deemed to have met the safety inspection requirements of the section without a separate safety inspection by an official inspection station. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158, and an inspection approval sticker furnished by the Department of State Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163;

19. Mopeds;

20. Low-speed vehicles; and

21. Vehicles exempt from registration pursuant to Article 6 (§ 46.2-662 et seq.) of Chapter 6.

B. The following shall be exempt from inspection as required by § 46.2-1157 provided (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 C.F.R. Part 396 § 396.3(a); and (iv) documentation of such determination as provided for in 49 C.F.R. Part 396 § 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current;

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations;

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

§ 46.2-1158.02. Penalty for failure to have motor vehicle inspection.

Notwithstanding the penalty provisions of § 46.2-1171, a violation of § 46.2-1158 constitutes a traffic infraction. The court may, in its discretion, dismiss a summons issued under § 46.2-1158 where correction of vehicle or safety equipment defects or proof of compliance with § 46.2-1158 is provided to the court subsequent to the issuance of the summons.

§ 46.2-1158.1. Extension of validity of vehicle safety inspection approval stickers issued for vehicles whose registered owners are persons in the armed services of the United States.

Notwithstanding any contrary provision of law, any vehicle safety inspection approval sticker issued for any vehicle that is principally garaged outside the Commonwealth while its registered owner is a person in the armed services of the United States shall be held not to have expired during the period of the owner's official absence from the Commonwealth in the armed services of the United States, regardless of whether such vehicle is operated in or through the Commonwealth during the owner's official absence from the Commonwealth in the armed services of the United States. Should the armed services member be domiciled in another state of the United States, nothing in this section shall be construed to absolve such person from obtaining a current inspection sticker from his state of domicile, if required by such state. In cases where a vehicle's owner has been officially absent from the Commonwealth because of service in the armed services of the United States but returns to Virginia following such official absence and the vehicle becomes operational in the Commonwealth, the vehicle's owner will have five business days following such return, Sundays and holidays excepted, to have the vehicle inspected. Furthermore, no penalty shall be imposed on any such owner or operator for operation of a motor vehicle, trailer, or semitrailer after the expiration of a period fixed for the inspection thereof, over the most direct route between the place where such vehicle is kept or garaged and an official inspection station for the purpose of having it inspected pursuant to an appointment with such station.

Motor vehicles owned and operated by persons on active duty with the United States armed forces who are Virginia residents stationed outside the Commonwealth at the time the inspection expires may be operated on the highways of the Commonwealth while persons on active duty are on leave, provided such vehicle displays a valid inspection sticker issued by another state.

For the purposes of this section, "service in the armed services of the United States" includes active duty service with the regular armed forces of the United States or the National Guard or other reserve component.

2. That § 46.2-1161 of the Code of Virginia is repealed.