

2013 SESSION

HOUSE SUBSTITUTE

13104535D

HOUSE BILL NO. 1708

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 28, 2013)

(Patrons Prior to Substitute—Delegates Habeeb and Head [HB 1374])

A BILL to amend and reenact § 8.01-420 of the Code of Virginia, relating to use of depositions as a basis for summary judgment.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-420 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-420. Depositions as basis for motion for summary judgment or to strike evidence.

~~No~~ *A. Except as provided in subsection B, no motion for summary judgment or to strike the evidence shall be sustained when based in whole or in part upon any discovery depositions under Rule 4:5, unless all parties to the suit or action shall agree that such deposition may be so used. Notwithstanding the foregoing, requests for admissions for which the responses are submitted in support of a motion for summary judgment may be based in whole or in part upon any discovery depositions under Rule 4:5 and may include admitted facts learned or referenced in such a deposition, provided that any such request for admission shall not reference the deposition or require the party to admit that the deponent gave specific testimony.*

B. Notwithstanding the provisions of subsection A, a motion for summary judgment seeking dismissal of any claim or demand for punitive damages may be sustained, as to the punitive damages claim or demand only, when based in whole or in part upon any discovery depositions under Rule 4:5. However, such a motion may not be based upon discovery depositions under Rule 4:5 with respect to any claim or demand for punitive damages based on the operation of a motor vehicle by a person while under the influence of alcohol, any narcotic drug, or any other self-administered intoxicant or drug.

HOUSE
SUBSTITUTE

HB1708H1