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SENATE BILL NO. 1021

Offered January 11, 2017

Prefiled January 4, 2017

A *BILL to amend and reenact §§ 16.1-69.40:1 and 46.2-830.1 of the Code of Virginia, relating to failure to obey highway sign where driver sleeping or resting; prepayable offense.*

Patron—Barker

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.40:1 and 46.2-830.1 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

Such infractions shall not include:

1. Indictable offenses;

2. [Repealed.]

3. Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;

4. Reckless driving;

5. Leaving the scene of an accident;

6. Driving while under suspension or revocation of driver's license;

7. Driving without being licensed to drive.

8. [Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles or the appropriate offices of the State where he received his license to drive.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or

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59 interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for
60 trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall
61 be paid in accordance with the provisions of this Code or any rules or regulations promulgated
62 thereunder.

63 **§ 46.2-830.1. Failure to obey highway sign where driver sleeping or resting.**

64 ~~Upon the trial of a person charged with failure~~ *The driver of a vehicle shall not fail* to obey a
65 highway sign in violation of § 46.2-830 where ~~the court finds that~~ the violation resulted from the vehicle
66 having been parked or stopped by the driver on the shoulder or other portion of the highway not
67 ordinarily used for vehicular traffic in order for the driver to sleep or rest; ~~the court may, in lieu of~~
68 ~~convicting under § 46.2-830, find the driver guilty of violating this section, which shall be a~~
69 ~~lesser-included offense of § 46.2-830.~~ No demerit points shall be assigned pursuant to the Uniform
70 Demerit Point System for ~~convictions pursuant to a violation of~~ this section.