

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 250

*An Act to amend and reenact § 46.2-868 of the Code of Virginia, to amend the Code of Virginia by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-818.2, and to repeal § 46.2-1078.1 of the Code of Virginia, relating to holding handheld personal communication devices while driving a motor vehicle; report.*

[H 874]

Approved March 10, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-868 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-818.2 as follows:**

**§ 46.2-818.2. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.**

*A. It is unlawful for any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device.*

*B. The provisions of this section shall not apply to:*

*1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;*

*2. An operator who is lawfully parked or stopped;*

*3. Any person using a handheld personal communications device to report an emergency;*

*4. The use of an amateur or a citizens band radio; or*

*5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1 during the performance of traffic incident management services.*

*C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. If a violation of this section occurs in a highway work zone, it shall be punishable by a mandatory fine of \$250.*

*D. For the purposes of this section:*

*"Emergency vehicle" means:*

*1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while engaged in the performance of official duties;*

*2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;*

*3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;*

*4. Any emergency medical services vehicle designed or used for the principal purpose of supplying resuscitation or emergency relief where human life is endangered;*

*5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;*

*6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and*

*7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.*

*"Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.*

*E. Distracted driving shall be included as a part of the driver's license knowledge examination.*

**§ 46.2-868. Reckless driving; penalties.**

*A. Every person convicted of reckless driving under the provisions of this article is guilty of a Class 1 misdemeanor.*

*B. Every person convicted of reckless driving under the provisions of this article who, when he committed the offense, (i) was driving without a valid operator's license due to a suspension or revocation for a moving violation and, (ii) as the sole and proximate result of his reckless driving, caused the death of another, is guilty of a Class 6 felony.*

*C. The punishment for every person convicted of reckless driving under the provisions of this article*

who, when he committed the offense, was in violation of ~~§ 46.2-1078.1~~ § 46.2-818.2 shall include a mandatory minimum fine of \$250.

**2. That § 46.2-1078.1 of the Code of Virginia is repealed.**

**3. That the provisions of this act shall become effective on January 1, 2021.**

**4. That the Virginia Association of Chiefs of Police and DRIVE SMART Virginia shall create training and educational materials on the implementation and enforcement of this act to be made available to law-enforcement agencies.**

**5. That DRIVE SMART Virginia and other traffic safety organizations shall develop and provide educational materials to the public regarding the provisions of this act prior to its effective date.**

**6. That the Chairmen of the Senate Committee on the Judiciary and the House Committee for Courts of Justice shall annually request the Office of the Executive Secretary to report all of the citations issued pursuant to the provisions of this act and, to the extent available, the relevant demographic characteristics of those persons issued a citation.**