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HOUSE BILL NO. 874

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 13, 2020)(Patrons Prior to Substitute—Delegates Bourne, Bulova [HB 512], Edmunds [HB 387], Ware [HB 1672],
and Willett [HB 377])

A BILL 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.

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,

60 caused the death of another, is guilty of a Class 6 felony.

61 C. The punishment for every person convicted of reckless driving under the provisions of this article
62 who, when he committed the offense, was in violation of ~~§ 46.2-1078.1~~ § 46.2-818.2 shall include a
63 mandatory minimum fine of \$250.

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 That § 46.2-1078.1 of the Code of Virginia is repealed.**

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

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

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

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