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SENATE BILL NO. 160

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 20, 2020)

(Patrons Prior to Substitute—Senators Surovell, Stuart [SB 136], and Saslaw [SB 944])

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

60 C. The punishment for every person convicted of reckless driving under the provisions of this article
61 who, when he committed the offense, was in violation of ~~§ 46.2-1078.1~~ § 46.2-818.2 shall include a
62 mandatory minimum fine of \$250.
63 **2. That § 46.2-1078.1 of the Code of Virginia is repealed.**
64 **3. That the provisions of this act shall become effective on January 1, 2021.**
65 **4. That the Virginia Association of Chiefs of Police and DRIVE SMART Virginia shall create**
66 **training and educational materials on the implementation and enforcement of this act to be made**
67 **available to law-enforcement agencies.**
68 **5. That DRIVE SMART Virginia and other traffic safety organizations shall develop and provide**
69 **educational materials to the public regarding the provisions of this act prior to its effective date.**
70 **6. That the Chairmen of the Senate Committee on the Judiciary and the House Committee for**
71 **Courts of Justice shall annually request the Office of the Executive Secretary to report all of the**
72 **citations issued pursuant to the provisions of this act and, to the extent available, the relevant**
73 **demographic characteristics of those persons issued a citation.**