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## SENATE BILL NO. 907

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Senator Lucas)

A BILL to amend and reenact §§ 46.2-868, 46.2-1094, 46.2-1158, and 46.2-1300; to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1, by adding a section numbered 46.2-800.4, and 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 transportation safety.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-868, 46.2-1094, 46.2-1158, and 46.2-1300 are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 46.2 a section numbered 46.2-224.1, by adding a section numbered 46.2-800.4, and by adding in Article 1 of Chapter 8 of Title 46.2 a section numbered 46.2-818.2 as follows:

§ 46.2-224.1. *Education and oversight of enforcement of highway safety policies.*

A. The Commissioner shall establish an advisory council to monitor the effectiveness and enforcement of §§ 46.2-800.4, 46.2-818.2, and 46.2-1094. The council shall include members representing (i) a nonprofit organization primarily focused on promoting programs and education related to traffic safety in the Commonwealth, (ii) the Virginia Association of Chiefs of Police and the Virginia Sheriffs' Association, (iii) organizations focused on social equity and justice issues, (iv) the Virginia State Police, and (v) a traffic safety organization. The council shall review whether the enforcement of §§ 46.2-800.4, 46.2-818.2, and 46.2-1094 has a disproportionate impact on minority or low-income populations.

B. The Commissioner, working with the organizations described in clauses (i), (ii), and (v) of subsection A, shall create training and educational materials on the implementation and enforcement of §§ 46.2-800.4, 46.2-818.2, and 46.2-1094. These materials shall be reviewed by the advisory council established pursuant to subsection A and made available to law-enforcement agencies.

C. The Commissioner, working with the organizations described in clauses (i) and (v) of subsection A, shall create and provide educational materials for the public regarding the provisions of §§ 46.2-800.4, 46.2-818.2, and 46.2-1094.

§ 46.2-800.4. *Possession of open container of alcohol in a motor vehicle and presumption; penalty.*

A. No person shall knowingly or intentionally possess any alcoholic beverage in a motor vehicle that is upon a public highway of the Commonwealth, including the shoulder thereof, in any container other than the manufacturer's unopened, original container. If the seal on a container of an alcoholic beverage is broken or some of the contents have been removed, the container shall be presumed to be open.

B. This section shall not apply to any open container containing an alcoholic beverage that is (i) in a locked glove compartment, (ii) in the trunk of the motor vehicle, or (iii) in a vehicle that is not equipped with a trunk, is behind the last upright seat or in an area not normally occupied by the driver or a passenger.

C. This section shall not apply if the open container containing an alcoholic beverage is in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or is in the living quarters of a motor home, provided that the container is not in the possession of the driver of the motor vehicle.

D. Any person who violates this section shall be subject to a civil penalty of \$25 and any such prosecution shall be instituted and conducted in the same manner as a prosecution for a traffic infraction. All penalties collected under this subsection shall be paid into the Motor Vehicle Special Fund, to be used by the Department of Motor Vehicles to design, implement, administer, and review special programs or projects to promote highway safety in the Commonwealth.

E. For purposes of this section, "public highway" shall not include any motor vehicle parking lot.

§ 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;

- 60 3. Any person using a handheld personal communications device to report an emergency;  
61 4. The use of an amateur or a citizens band radio; or  
62 5. The operator of any Department of Transportation vehicle or vehicle operated pursuant to the  
63 Department of Transportation safety service patrol program or pursuant to a contract with the  
64 Department of Transportation for, or that includes, traffic incident management services as defined in  
65 subsection B of § 46.2-920.1 during the performance of traffic incident management services.

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

69 D. For the purposes of this section:

70 "Emergency vehicle" means:

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

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

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

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

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

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

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

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

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

91 **§ 46.2-868. Reckless driving; penalties.**

92 A. Every person convicted of reckless driving under the provisions of this article is guilty of a Class  
93 1 misdemeanor.

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

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

101 **§ 46.2-1094. Occupants of front seats of motor vehicles required to use safety lap belts and**  
102 **shoulder harnesses; penalty.**

103 A. Any driver, and any other person at least 18 years of age and occupying ~~the front seat~~, any seat  
104 of a motor vehicle equipped or required by the provisions of this title to be equipped with a safety belt  
105 system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear  
106 the appropriate safety belt system at all times while the motor vehicle is in motion on any public  
107 highway. A passenger under the age of 18 years, however, shall be protected as required by the  
108 provisions of Article 13 (§ 46.2-1095 et seq.) of this chapter.

109 B. This section shall not apply to:

110 1. Any person for whom a licensed physician determines that the use of such safety belt system  
111 would be impractical by reason of such person's physical condition or other medical reason, provided the  
112 person so exempted carries on his person or in the vehicle a signed written statement of the physician  
113 identifying the exempted person and stating the grounds for the exemption; or

114 2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which  
115 render the wearing of such safety belt system impractical; or

116 3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the  
117 United States Postal Service; or

118 4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier,  
119 newspaper bundle hauler or newspaper rack carrier; or

120 5. Drivers of and passengers in taxicabs; or

121 6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery

of goods or services, including but not limited to solid waste, where such collection or delivery requires the personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or when the vehicle is in transit to or from a point of final disposition or disposal, including but not limited to solid waste facilities, terminals, or other location where the vehicle may be principally garaged; or

7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or

8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor vehicle parking; or

9. Any person in a motor vehicle not equipped with seat belts.

C. Any person who violates this section shall be subject to a civil penalty of ~~twenty-five dollars~~ \$25 for a first offense, \$35 for a second offense, and \$50 for a third or subsequent offense to be paid into the state treasury and credited to the Literary Fund. Upon a conviction under this section, the court shall furnish the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become part of the person's driving record. No assignment of demerit points shall be made under Article 19 of Chapter 3 (§ 46.2-489 et seq.) of this title and no court costs shall be assessed for violations of this section.

D. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action.

E. A violation of this section may be charged on the uniform traffic summons form.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

G. The governing body of the City of Lynchburg may adopt an ordinance not inconsistent with the provisions of this section, requiring the use of safety belt systems. The penalty for violating any such ordinance shall not exceed a fine or civil penalty of ~~twenty-five dollars~~ \$25.

#### **§ 46.2-1158. Frequency of inspection; scope of inspection.**

Motor vehicles, trailers, and semitrailers required to be inspected pursuant to the provisions of § 46.2-1157 shall be reinspected within ~~12~~ 24 months of the month of the first inspection and at least once every ~~12~~ 24 months thereafter.

Each inspection shall be a complete inspection. A reinspection of a rejected vehicle by the same station during the period of validity of the rejection sticker on such vehicle, however, need only include an inspection of the item or items previously found defective unless there is found an obvious defect that would warrant further rejection of the vehicle.

A rejection sticker shall be valid for 15 calendar days beyond the day of issuance. A complete inspection shall be performed on any vehicle bearing an expired rejection sticker.

The completion of the conversion process for a converted electric vehicle shall invalidate any inspection of such vehicle conducted in accordance with this section prior to the conversion. Following the initial inspection of a converted electric vehicle, as required under § 46.2-602.3 and the provisions of this chapter, such vehicle shall be reinspected in accordance with this section.

#### **§ 46.2-1300. Powers of local authorities generally; erection of signs and markers; maximum penalties.**

A. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the provisions of this title to regulate the operation of vehicles on the highways in such counties, cities, and towns. They may also repeal, amend, or modify such ordinances and may erect appropriate signs or markers on the highway showing the general regulations applicable to the operation of vehicles on such highways. The governing body of any county, city, or town may by ordinance, or may by ordinance authorize its chief administrative officer to:

1. Increase or decrease the speed limit within its boundaries, provided such increase or decrease in speed shall be based upon an engineering and traffic investigation by such county, city or town and provided such speed area or zone is clearly indicated by markers or signs;

2. Authorize the city or town manager or such officer thereof as it may designate, to reduce for a temporary period not to exceed ~~sixty~~ 60 days, without such engineering and traffic investigation, the speed limit on any portion of any highway of the city or town on which work is being done or where the highway is under construction or repair;

3. Require vehicles to come to a full stop or yield the right-of-way at a street intersection if one or

183 more of the intersecting streets has been designated as a part of the primary state highway system in a  
184 town which has a population of less than 3,500;

185 *4. Reduce the speed limit to less than 25 miles per hour on any highway within its boundaries that is*  
186 *located in a business district or residential district, provided such reduced speed limit is indicated by*  
187 *lawfully placed signs.*

188 B. No such ordinance shall be violated if at the time of the alleged violation the sign or marker  
189 placed in conformity with this section is missing, substantially defaced, or obscured so that an ordinarily  
190 observant person under the same circumstances would not be aware of the existence of the ordinance.

191 C. No governing body of a county, city, or town may provide penalties for violating a provision of  
192 an ordinance adopted pursuant to this section which is greater than the penalty imposed for a similar  
193 offense under the provisions of this title.

194 D. No county whose roads are under the jurisdiction of the Department of Transportation shall  
195 designate, in terms of distance from a school, the placement of flashing warning lights unless the  
196 authority to do so has been expressly delegated to such county by the Department of Transportation, in  
197 its discretion.

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

199 **3. That the provisions of this act adding sections numbered 46.2-800.4 and 46.2-818.2 and**  
200 **amending § 46.2-1094 of the Code of Virginia shall become effective July 1, 2021.**

201 **4. That the Chairmen of the House Committee for Courts of Justice and the Senate Committee on**  
202 **the Judiciary, and the Joint Commission on Transportation Accountability, shall annually request**  
203 **the Office of the Executive Secretary of the Supreme Court of Virginia to report all of the**  
204 **citations issued pursuant to the provisions of this act and, to the extent available, the relevant**  
205 **demographic characteristics of those persons issued a citation.**