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HOUSE BILL NO. 1445

Offered January 11, 2023

Prefiled December 21, 2022

A *BILL to amend and reenact §§ 4.1-1302, 46.2-646, 46.2-1003, 46.2-1013, 46.2-1014, 46.2-1014.1, 46.2-1030, 46.2-1052, 46.2-1054, and 46.2-1157 of the Code of Virginia, relating to issuing citations; certain traffic offenses and odor of marijuana; exclusion of evidence.*

Patron—Wyatt

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-1302, 46.2-646, 46.2-1003, 46.2-1013, 46.2-1014, 46.2-1014.1, 46.2-1030, 46.2-1052, 46.2-1054, and 46.2-1157 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-1302. Search without warrant; odor of marijuana.

A. No law-enforcement officer, as defined in § 9.1-101, may lawfully stop, search, or seize any person, place, or thing and no search warrant may be issued solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant to a violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

B. The provisions of subsection A shall not apply in any airport as defined in § 5.1-1 or, if the violation occurs in a commercial motor vehicle as defined in § 46.2-341.4, or if the odor of marijuana creates a reasonable suspicion of a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2.

§ 46.2-646. Expiration and renewal of registration.

A. Every registration under this title, unless otherwise provided, shall expire on the last day of the twelfth month next succeeding the date of registration. Every registration, unless otherwise provided, shall be renewed annually on application by the owner and by payment of the fees required by law, the renewal to take effect on the first day of the month succeeding the date of expiration. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring registration if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, and (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

B. All motor vehicles, trailers, and semitrailers registered in the Commonwealth shall, at the discretion of the Commissioner, be placed in a system of registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the 12 months of the year. All such motor vehicles, trailers, and semitrailers, unless otherwise provided, shall be registered for a period of 12 months. The registration shall be extended, at the discretion of the Commissioner, on receipt of appropriate prorated fees, as required by law, for a period of not less than one month nor more than 11 months as is necessary to distribute the registrations as equally as practicable on a monthly basis. The Commissioner shall, on request, assign to any owner or owners of two or more motor vehicles, trailers, or semitrailers the same registration period. The expiration date shall be the last day of the twelfth month or the last day of the designated month. Except for motor vehicles, trailers, and semitrailers registered for more than one year under subsection C of this section, every registration shall be renewed annually on application by the owner and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

C. The Commissioner may offer, at his discretion, an optional multi-year registration for all motor vehicles, trailers, and semitrailers except for (i) those registered under the International Registration Plan and (ii) those registered as uninsured motor vehicles. When this option is offered and chosen by the registrant, all annual and 12-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

D. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons where proof of compliance with this section is provided to the court on or before the court date.

E. No law-enforcement officer shall stop a motor vehicle due to an expired registration sticker prior to the first day of the fourth month after the original expiration date. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.

§ 46.2-1003. Illegal use of defective and unsafe equipment.

A. It shall be unlawful for any person to use or have as equipment on a motor vehicle operated on a

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59 highway any device or equipment mentioned in § 46.2-1002 ~~which~~ *that* is defective and in an unsafe
60 condition.

61 B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss
62 the summons, where proof of compliance with this section is provided to the court on or before the
63 court date.

64 C. ~~No law enforcement officer shall stop a motor vehicle for a violation of this section. No evidence~~
65 ~~discovered or obtained as the result of a stop in violation of this subsection, including evidence~~
66 ~~discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other~~
67 ~~proceeding.~~

68 **§ 46.2-1013. Tail lights.**

69 A. Every motor vehicle and every trailer or semitrailer being drawn at the end of one or more other
70 vehicles shall carry at the rear two red lights plainly visible in clear weather from a distance of 500 feet
71 to the rear of such vehicle.

72 B. ~~All~~ *Such* tail lights ~~required pursuant to subsection A~~ shall be constructed and so mounted in their
73 relation to the rear license plate as to illuminate the license plate with a white light so that the same
74 may be read from a distance of 50 feet to the rear of such vehicle. Alternatively, a separate white light
75 shall be so mounted as to illuminate the rear license plate from a distance of 50 feet to the rear of such
76 vehicle. ~~No law enforcement officer shall stop a motor vehicle for a violation of this subsection. No~~
77 ~~evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence~~
78 ~~discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other~~
79 ~~proceeding.~~

80 C. Any *such* tail lights or special white light ~~required pursuant to this section~~ shall be of a type
81 approved by the Superintendent.

82 D. In any instance where the tail light is to be installed on a boat trailer and the boat extends beyond
83 the end of the trailer or to the end of the trailer, an approved portable light assembly or assemblies may
84 be attached to the exposed rear of the boat, provided such installation complies with the visibility
85 requirements of this section. The provisions of this section shall not apply to motorcycles.

86 **§ 46.2-1014. Brake lights.**

87 A. Every motor vehicle, trailer, or semitrailer, except an antique vehicle not originally equipped with
88 a brake light, registered in the Commonwealth and operated on the highways in the Commonwealth
89 shall be equipped with at least two brake lights of a type approved by the Superintendent. Such brake
90 lights shall automatically exhibit a red or amber light plainly visible in clear weather from a distance of
91 500 feet to the rear of such vehicle when the brake is applied.

92 The provisions of this section shall not apply to motorcycles or autcycles equipped with brake lights
93 as required by § 46.2-1012.

94 B. ~~No law enforcement officer shall stop a motor vehicle, trailer, or semitrailer for a violation of this~~
95 ~~section, except that a law enforcement officer may stop a vehicle if it displays no brake lights that meet~~
96 ~~the requirements set forth in subsection A. No evidence discovered or obtained as the result of a stop in~~
97 ~~violation of this subsection, including evidence discovered or obtained with the operator's consent, shall~~
98 ~~be admissible in any trial, hearing, or other proceeding.~~

99 **§ 46.2-1014.1. Supplemental high mount stop light.**

100 A. Whenever operated on the highways, every Virginia-registered passenger car manufactured for the
101 1986 or subsequent model year shall be equipped with a supplemental center high mount stop light of a
102 type approved by the Superintendent or which meets the standards adopted by the United States
103 Department of Transportation. The light shall be mounted as near the vertical center line of the vehicle
104 as possible. The light shall be actuated only in conjunction with the vehicle's brake lights and hazard
105 lights. Any supplemental high mount stop light installed on any other vehicle shall comply with those
106 requirements.

107 B. ~~No law enforcement officer shall stop a motor vehicle for a violation of this section. No evidence~~
108 ~~discovered or obtained as the result of a stop in violation of this subsection, including evidence~~
109 ~~discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other~~
110 ~~proceeding.~~

111 **§ 46.2-1030. When lights to be lighted; number of lights to be lighted at any time; use of**
112 **warning lights.**

113 A. Every vehicle in operation on a highway in the Commonwealth shall display lighted headlights
114 and illuminating devices as required by this article (i) from sunset to sunrise; (ii) during any other time
115 when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric
116 conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly
117 discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog,
118 rain, sleet, or snow. The provisions of this subsection, however, shall not apply to instances when
119 windshield wipers are used intermittently in misting rain, sleet, or snow.

120 B. Not more than four lights used to provide general illumination ahead of the vehicle, including at

least two headlights and any other combination of fog lights or other auxiliary lights approved by the Superintendent, shall be lighted at any time. However, motorcycles may be equipped with and use not more than five approved lights in order to provide general illumination ahead of the motorcycle. These limitations shall not preclude the display of warning lights authorized in §§ 46.2-1020 through 46.2-1027, or other lights as may be authorized by the Superintendent.

C. Vehicles equipped with warning lights authorized in §§ 46.2-1020 through 46.2-1027 shall display lighted warning lights as authorized in such sections at all times when responding to emergency calls, responding to traffic incidents, towing disabled vehicles, or constructing, repairing, and maintaining public highways or utilities on or along public highways, except that amber lights on vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks," need not be lit while the vehicle is in motion unless it is actually towing a vehicle.

D. The failure to display lighted headlights and illuminating devices under the conditions set forth in clause (iii) of subsection A shall not constitute negligence per se, nor shall violation of clause (iii) of subsection A constitute a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

E. No demerit points shall be assessed for failure to display lighted headlights and illuminating devices during periods of fog, rain, sleet, or snow in violation of clause (iii) of subsection A.

F. No citation for a violation of clause (iii) of subsection A 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. ~~No law enforcement officer shall stop a motor vehicle for a violation of this section, except that a law enforcement officer may stop a vehicle if it displays no lighted headlights during the time periods set forth in subsection A. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~

§ 46.2-1052. Tinting films, signs, decals, and stickers on windshields, etc.; penalties.

A. As used in this article, unless the context requires a different meaning:

"Front side windows" means those windows located adjacent to and forward of the driver's seat.

"Holographic effect" means a picture or image that may remain constant or change as the viewing angle is changed.

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use.

"Prism effect" means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle.

"Rear side windows" means those windows located to the rear of the driver's seat.

"Rear window" or "rear windows" means those windows that are located to the rear of the passenger compartment of a motor vehicle and that are approximately parallel to the windshield.

B. Except as otherwise provided in this article or permitted by federal law, it shall be unlawful for any person to operate any motor vehicle on a highway with any sign, poster, colored or tinted film, sun-shading material, or other colored material on the windshield, front or rear side windows, or rear windows of such motor vehicle. This provision, however, shall not apply to any certificate or other paper required by law or permitted by the Superintendent to be placed on a motor vehicle's windshield or window.

The size of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent. Such stickers shall be affixed on the windshield at a location designated by the Superintendent.

C. Notwithstanding the foregoing provisions of this section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle, so located as to reflect to the driver of such vehicle a view of the highway for at least 200 feet to the rear of such vehicle, any or all of the following shall be lawful:

1. To drive a motor vehicle equipped with one optically grooved clear plastic right-angle rear view lens attached to one rear window of such motor vehicle, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the driver of the motor vehicle to view below the line of sight as viewed through the rear window;

2. To have affixed to the rear side windows, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or

3. To drive a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.

182 D. Except as provided in § 46.2-1053, but notwithstanding the foregoing provisions of this section,
183 no sun-shading or tinting film may be applied or affixed to any window of a motor vehicle unless such
184 motor vehicle is equipped with a mirror on each side of such motor vehicle, so located as to reflect to
185 the driver of the vehicle a view of the highway for at least 200 feet to the rear of such vehicle, and the
186 sun-shading or tinting film is applied or affixed in accordance with the following:

187 1. No sun-shading or tinting films may be applied or affixed to the rear side windows or rear
188 window or windows of any motor vehicle operated on the highways of the Commonwealth that reduce
189 the total light transmittance of such window to less than 35 percent;

190 2. No sun-shading or tinting films may be applied or affixed to the front side windows of any motor
191 vehicle operated on the highways of the Commonwealth that reduce total light transmittance of such
192 window to less than 50 percent;

193 3. No sun-shading or tinting films shall be applied or affixed to any window of a motor vehicle that
194 (i) have a reflectance of light exceeding 20 percent or (ii) produce a holographic or prism effect.

195 Any person who operates a motor vehicle on the highways of the Commonwealth with sun-shading
196 or tinting films that (i) have a total light transmittance less than that required by subdivisions 1 and 2,
197 (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is
198 guilty of a traffic infraction but shall not be awarded any demerit points by the Commissioner for the
199 violation.

200 Any person or firm who applies or affixes to the windows of any motor vehicle in Virginia
201 sun-shading or tinting films that (i) reduce the light transmittance to levels less than that allowed in
202 subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic
203 or prism effects is guilty of a Class 3 misdemeanor for the first offense and of a Class 2 misdemeanor
204 for any subsequent offense.

205 E. The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper
206 standards for equipment or devices used to measure light transmittance through windows of motor
207 vehicles. Law-enforcement officers shall use only such equipment or devices to measure light
208 transmittance through windows that meet the standards established by the Division. Such measurements
209 made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

210 F. No film or darkening material may be applied on the windshield except to replace the sunshield in
211 the uppermost area as installed by the manufacturer of the vehicle.

212 G. Nothing in this section shall prohibit the affixing to the rear window of a motor vehicle of a
213 single sticker no larger than 20 square inches if such sticker is totally contained within the lower five
214 inches of the glass of the rear window, nor shall subsection C apply to a motor vehicle to which but one
215 such sticker is so affixed.

216 H. Nothing in this section shall prohibit applying to the rear side windows or rear window of any
217 multipurpose passenger vehicle or pickup truck sun-shading or tinting films that reduce the total light
218 transmittance of such window or windows below 35 percent.

219 I. Notwithstanding the foregoing provisions of this section, sun-shading material which was applied
220 or installed prior to July 1, 1987, in a manner and on which windows not then in violation of Virginia
221 law, shall continue to be lawful, provided that it can be shown by appropriate receipts that such material
222 was installed prior to July 1, 1987.

223 J. Where a person is convicted within one year of a second or subsequent violation of this section
224 involving the operation of the same vehicle having a tinted or smoked windshield, the court, in addition
225 to any other penalty, may order the person so convicted to remove such tinted or smoked windshield
226 from the vehicle.

227 K. The provisions of this section shall not apply to law-enforcement vehicles.

228 L. The provisions of this section shall not apply to the rear windows or rear side windows of any
229 emergency medical services vehicle used to transport patients.

230 M. The provisions of subdivisions D 1, 2, and 3 shall not apply to vehicles operated in the
231 performance of private security duties by a security canine handler as defined in § 9.1-138 and licensed
232 in accordance with § 9.1-139.

233 N. The provisions of subdivision D 1 shall not apply to sight-seeing carriers as defined in
234 § 46.2-2000 and contract passenger carriers as defined in § 46.2-2000.

235 O. For any summons issued for a violation of this section, the court may, in its discretion, dismiss
236 the summons, where proof of compliance with this section is provided to the court on or before the
237 court date.

238 ~~P. No law-enforcement officer shall stop a motor vehicle for a violation of this section. No evidence~~
239 ~~discovered or obtained as the result of a stop in violation of this subsection, including evidence~~
240 ~~discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other~~
241 ~~proceeding.~~

242 **§ 46.2-1054. Suspension of objects or alteration of vehicle so as to obstruct driver's view.**

243 ~~A.~~ It shall be unlawful for any person (i) to drive a motor vehicle on a highway in the

Commonwealth with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of the motor vehicle in such a manner as to substantially obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window or (ii) to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield. However, this section shall not apply (a) when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the driver a view of the highway for at least 200 feet to the rear of such vehicle, (b) to safety devices installed on the windshields of vehicles owned by private waste haulers or local governments and used to transport solid waste, or (c) to bicycle racks installed on the front of any bus operated by any city, county, transit authority, or transit or transportation district. The provisions of clause (ii) shall not apply to the lawful immobilization of vehicles pursuant to § 46.2-1216 or 46.2-1231.

~~B. No law enforcement officer shall stop a motor vehicle for a violation of this section. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~

§ 46.2-1157. Inspection of motor vehicles required.

A. The owner or operator of any motor vehicle, trailer, or semitrailer registered in Virginia and operated or parked on a highway within the Commonwealth shall submit his vehicle to an inspection of its mechanism and equipment by an official inspection station, designated for that purpose, in accordance with § 46.2-1158. No owner or operator shall fail to submit a motor vehicle, trailer, or semitrailer operated or parked on the highways in the Commonwealth to such inspection or fail or refuse to correct or have corrected in accordance with the requirements of this title any mechanical defects found by such inspection to exist.

B. The provisions of this section requiring safety inspections of motor vehicles shall also apply to vehicles used for firefighting; inspections of firefighting vehicles shall be conducted pursuant to regulations promulgated by the Superintendent of State Police, taking into consideration the special purpose of such vehicles and the conditions under which they operate.

C. Each day during which such motor vehicle, trailer, or semitrailer is operated or parked on any highway in the Commonwealth after failure to comply with this law shall constitute a separate offense.

D. Except as otherwise provided, autocycles shall be inspected as motorcycles under this article.

~~E. No law enforcement officer shall stop a motor vehicle due to an expired vehicle inspection sticker until the first day of the fourth month after the original expiration date. No evidence discovered or obtained as the result of a stop in violation of this subsection, including evidence discovered or obtained with the operator's consent, shall be admissible in any trial, hearing, or other proceeding.~~